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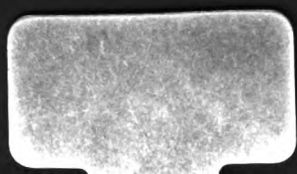
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INSTRUCTIONS
FOR THE USE OF
CANDIDATES FOR HOLY
ORDERS
AND OF
THE PAROCHIAL CLERGY

AS TO

ORDINATION	RESIGNATIONS	ENDOWMENTS	BENEFACCTIONS
LICENCES	PLURALITIES	APPROPRIATED	PURCHASES
INSTITUTIONS	DISPENSATIONS	MONEY	GLEBE HOUSES
COLLATIONS	UNIONS	MORTGAGES	BUILDING LEASES
INDUCTION	DISUNIONS	SALES	FARMING LEASES
READING-IN	RESIDENCE	EXCHANGES	SCHOOL SITES
	AUGMENTATIONS		

WITH

ACTS OF PARLIAMENT RELATING TO THE SAME

And Forms proposed to be used

By CHRISTOPHER HODGSON, M.A.

SECRETARY TO THE GOVERNORS OF QUEEN ANNE'S BOUNTY

NINTH EDITION, REVISED AND ENLARGED



RIVINGTONS
London, Oxford, and Cambridge
1870

PREFACE.

IN the present, being the Ninth, Edition of “Instructions for the use of Candidates for Holy Orders, and of the Parochial Clergy,” many alterations have been made in consequence of recent amendments in the law relating to the Clergy. The Author trusts that this work will be found useful, not only by those for whose immediate use it is designed, but also by Solicitors and others who may be engaged in the exercise of any of the various Powers given to Incumbents in the cases enumerated in the Table of Contents.

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PRACTICAL

FORMS AND INSTRUCTIONS.

INSTRUCTIONS to Candidates for Deacon's Orders¹.

PERSONS desirous of being admitted as candidates for Deacon's Orders, are recommended to make a written application to the bishop², six months before the time of ordination, stating their age, college, academical degree, and the usual place of their residence; together with the names of three or more clergymen or other persons of respectability, to whom they are best known; and to whom the bishop may apply, if he thinks fit, for further information concerning them.

The following six papers are to be sent by a candidate for Deacon's Orders to the secretary of the bishop in whose diocese the curacy which is to serve as a title is situate, four weeks before the day of ordination, or at such other time as the bishop shall appoint; and in due time he will be informed by the bishop's secretary when and where to attend for examination; for which purpose the candidate should, with the papers, send his proper address.

¹ As to ordinations specially for the Colonies, see the Act 59 Geo. III. c. 60. Appendix.

² As the practice may not be alike in every diocese, application should be made by a candidate to the bishop's secretary for instructions.

Testimo-
nials.

1. **LETTERS** testimonial from his college; and in case the candidate shall have quitted college, he must also present letters testimonial for the period elapsed since he quitted college, in the following form, signed by three beneficed clergymen, and countersigned by the bishop of the diocese in which their benefices are respectively situate, if they are not beneficed in the diocese of the bishop to whom the candidate applies for ordination.

2. FORM of Letters Testimonial for Orders.

To the ³ Right Reverend —, by divine permission
Lord Bishop of — [*the bishop in whose diocese
the curacy conferring the title is situate*].

Testimo-
nial, by
three
beneficed
clergymen.

Whereas our beloved in Christ, A. B., bachelor of arts (*or other degree*), of — college, in the university of —, hath declared to us his intention of offering himself as a candidate for the sacred office of a deacon, and for that end hath requested of us letters testimonial of his good life and conversation; we therefore, whose names are hereunto subscribed, do testify that the said A. B. hath been personally known to us for the space of ⁴ — last past; that we have had opportunities of observing his conduct; that during the whole of that time we verily believe that he lived piously, soberly, and honestly; nor have we at any time heard any thing to the contrary thereof; nor hath he at any time, as far as we know or believe, held, written, or taught any thing

³ It is to be observed that the proper address to an archbishop is, "To the Most Reverend —, by divine Providence Lord Archbishop of —;" and the style "Grace" is to be used instead of "Lordship." The proper address to the Bishop of Durham, is, "To the Right Reverend —, by divine Providence —."

⁴ For three years, or such shorter period as may have elapsed since the date of the College Testimonial.

contrary to the doctrine or discipline of the United Church of England and Ireland; and moreover we believe him, in our consciences, to be, as to his moral conduct, a person worthy to be admitted to the sacred order of deacons.

In witness whereof we have hereunto subscribed our names, this — day of —, in the year of our Lord one thousand eight hundred and —.

C. D., rector of —.

E. F., vicar of —.

G. H., rector of —.

[See before, as to countersignature.]

To be
counter-
signed.

3. FORM of notice or "Si quis," and of the certificate of the same having been published in the church of the parish where the candidate usually resides, to be presented by the candidate if he shall have quitted college.
- Si quis, or notice to be published in church.*

Notice is hereby given, that A. B., bachelor of arts (or other degree), of — college, Oxford [or Cambridge], and now resident in this parish, intends to offer himself as candidate for the holy office of a deacon at the ensuing ordination of the Lord Bishop of —; and if any person knows any just cause or impediment for which he ought not to be admitted into holy orders, he is now to declare the same, or to signify the same forthwith to the Lord Bishop of —.

Form thereof.

We do hereby certify, that the above notice was publicly read by the undersigned C. D., in the parish church of —, in the county of —, during the time

Certificate of publication of notice.

* It is recommended that the party giving the title be not one of the subscribers.

* The bishop in whose diocese the curacy conferring the title is situate.

of divine service on Sunday the — day of — last
[or instant], and ⁷ no impediment was alleged.

Witness our hands this — day of —, in the
year of our Lord one thousand eight hundred
and —.

C. D., officiating minister.

E. F., churchwarden.

Divinity
lectures.

4. CERTIFICATE from the Divinity Professor in the university, that the candidate has duly attended his lectures.

Other
lectures.

Also a certificate from any other professor whose lectures the candidate may have been directed by the bishop to attend.

Certificate
of baptism,

or proof by
affidavit or
otherwise.

5. CERTIFICATE of the candidate's baptism, from the register book of the parish where he was baptized, duly signed by the officiating minister, to show that he has completed his age of twenty-three years; and in case he shall have attained that age, but cannot produce a certificate of his baptism, then a declaration is to be made by the father or mother of the candidate or other competent person, before a justice of the peace, of the actual time of his birth, date and place of baptism, and why a certificate cannot be produced, or such other evidence as may be satisfactory to the bishop, is to be furnished; and here it may be necessary to remark, that by an act of the 44th Geo. III. c. 43., intituled, "An Act to enforce the due observance of the canons and rubric respecting the ages of persons to be admitted into the sacred order of deacon and priest," it is enacted, "that thenceforth no person shall be admitted a deacon before he shall have attained the age of three and twenty years complete; and that no person shall be ad-

⁷ If any impediment be alleged, notice thereof should be given by the officiating minister to the bishop.

mitted a priest before he shall have attained the age of four and twenty years complete: and that if a person shall be admitted a deacon before he shall have attained the age of twenty-three years complete, or a priest before he shall have attained the age of twenty-four years complete, such admission shall be void in law; and the person so admitted shall be incapable of holding any ecclesiastical preferment."

6. THE form of a Nomination to serve as a Title for Orders—if the Incumbent is non-resident. Title for orders.

To the Right Reverend —, Lord Bishop of —.

These are to certify your lordship, that I, C. D., Form of nomination, if incumbent is non-resident. rector [*or vicar, &c.*] of —, in the county of —, and your lordship's diocese of —, do hereby nominate A. B., bachelor of arts (*or other degree*), of — college, in the university of —, to perform the office of curate in my church of — aforesaid; and do promise to allow him the yearly stipend of — pounds, to be paid by equal quarterly payments [*as to amount of stipend, see title "Stipends payable to Curates"*], with the surplice fees, amounting on an average to — pounds per annum (*if they are intended to be allowed*), and the use of the glebe-house, garden, and offices, which he is to occupy (*if that be the fact; if not, state the reason, and name where and what distance* from the church the curate proposes to reside*): and I do hereby state to your lordship, that the said A. B. does not intend to serve, as curate, any other parish, nor to officiate in any other church or chapel (*if such be the fact; otherwise state the real fact*); that the net annual value of my said benefice, estimated according to the act of parliament 1 & 2 Victoria, c. 106, sects. 8 and 10, is — pounds, and the population thereof, according to the latest re-

* See 76th sec. of 1 & 2 Victoria, c. 106.

turns of population made under the authority of parliament, is ——. That there is only one church belonging to my said benefice (*if there be another church or chapel, state the fact*); and that I was admitted to the said benefice on the — day of —, 18—.

Witness my hand this — day of —, in the year of our Lord 18—.

[*Signature and address of*] C. D.

Declaration [required by the Clerical Subscription Act, 1865 (28 & 29 Victoria, c. 122), to be written at the foot of the Nomination].

Declaration, that the stipend will be *bond fide* paid by incumbent and received by candidate.

I, C. D., Incumbent of — in the county of —, *bond fide* undertake to pay to A. B. of —, in the county of —, the annual sum of — pounds as a stipend for his services as Curate; and I, A. B., *bond fide* intend to receive the whole of the said stipend.

And each of us, the said C. D. and A. B., declare that no abatement is to be made out of the said stipend in respect of rent or consideration for the use of the glebe-house; and that I, C. D., undertake to pay the same, and I, A. B., intend to receive the same, without any deduction or abatement whatsoever.

[*Signatures of*]

C. D.

A. B.

6a. THE form of Nomination to serve as a Title for Orders—if the Incumbent is resident.

Form of nomination, if the incumbent is resident.

The same form as No. 6, so far as “quarterly payments;” then proceed as follows:—And I do hereby state to your lordship, that the said A. B. intends to reside in the said parish, in a house [*describe its situation, so as clearly to identify it*], distant from my church — mile [*if A. B. does not intend to reside in the parish, then state at what place he intends to reside, and*

its distance from the said church] ; that the said A. B. does not intend to serve, as curate, any other parish, nor to officiate in any other church or chapel (*if such be the fact, otherwise state the real fact*).

Witness my hand this — day of —, 18—.

[*Signature and address of*] C. D.

Declaration [required by the Clerical Subscription Act, 1865, to be written at the foot of the Nomination.

I, C. D., Incumbent of —, in the county of —, *bond fide* undertake to pay to A. B., of —, in the county of —, the annual sum of — pounds as a stipend for his services as curate; and I, A. B., *bond fide* intend to receive the whole of the said stipend. Declara-
tion.

And each of us, the said C. D. and A. B., declare that no abatement is to be made out of the said stipend in respect of rent or consideration for the use of the glebe-house; and that I, C. D., undertake to pay the same, and I, A. B., intend to receive the same, without any deduction or abatement whatsoever.

[*Signatures of*]

C. D.

A. B.

Candidates for Deacon's Orders are requested, when they send their papers, to state their place of residence, and post town, or their present address. Candidates
to send
their ad-
dress.

Incumbents giving titles for orders, and candidates, are referred to the instructions hereinafter given, under the head "Stipends payable to Curates." Stipends to
curates

Declaration to be made and subscribed, and Oath to be taken and subscribed by all persons who are to be ordained Deacon.

I, A. B., about to be admitted to the Holy Order of Deacons, do solemnly make the following Declaration:— Declara-
tion of
assent, &c.

I assent to the Thirty-nine Articles of Religion and to the Book of Common Prayer and of the Ordering of Bishops, Priests, and Deacons. I believe the doctrine of the United Church of England and Ireland, as therein set forth, to be agreeable to the word of God; and in public prayer and administration of the Sacraments I will use the form in the said book prescribed, and none other, except so far as shall be ordered by lawful authority.

Oath of
allegiance,
&c.

I, A. B., about to be admitted to the Holy Order of Deacons, do swear that I will be faithful and bear true Allegiance to Her Majesty Queen Victoria, her heirs and successors according to law.

So help me God.

Ordination
for the
colonies,
&c.

The act of parliament 59 Geo. III. c. 60, should be referred to by those candidates for orders who are to officiate as clergymen in the colonies or the foreign possessions of the Crown.

INSTRUCTIONS as to Priest's Orders.*

THE following papers are to be sent by a candidate Papers for Priest's Orders. for Priest's Orders to the secretary to the bishop four weeks before the day of ordination, or at such other time as the bishop shall appoint; and in due time he will be informed by the bishop's secretary when and where to attend for examination.

Where a candidate applies for Priest's Orders to the same bishop who ordained him deacon, the papers Nos. 1 and 2 only are required.

1. LETTERS TESTIMONIAL of his sound doctrine, good Testimo-
nial. life, and behaviour, for the time elapsed since he was ordained deacon, signed by three beneficed clergymen, and countersigned by the bishop of the diocese in which their benefices are respectively situate, if not beneficed in the diocese of the bishop to whom the candidate applies for ordination. [*See form of Testimonial, in Instructions as to Deacon's Orders, No. 2.*]

2. NOTICE, or "Si quis," and certificate of the pub- Si quis. lication thereof. [*See form thereof, in the Instructions as to Deacon's Orders, No. 3.*]

In case the candidate was ordained deacon by the bishop of another diocese, he must produce not only the papers Nos. 1 and 2, but also the following papers, Nos. 3, 4, and 5, and the consent of the bishop who ordained him deacon to his being ordained priest in another diocese.

As it is not common for a deacon to be ordained Directions
to such
as were priest by any other than the bishop who admitted him

* It is not usual to confer Priest's Orders till the candidate has been a deacon one whole year, at the least.

ordained deacons by another bishop. to Deacon's Orders, a candidate applying to the bishop of another diocese must, in the first instance, state to him the particular circumstances which occasion the application, the curacy which he served, and for what period.

Letters of deacon's orders. 3. LETTERS of Deacon's Orders.

Certificate of baptism. 4. A certificate of his baptism. [*See directions as to the same, No. 5, in the Instructions for Deacon's Orders.*]

Title. 5. Nomination, if he be not already licensed. [*See forms, No: 6 and 6a, in the Instructions for Deacon's Orders.*]

Declaration. The same Declaration is to be made and subscribed, and oath taken and subscribed, by candidates for Priest's Orders as are mentioned in the Instructions as to Deacon's Orders.

Candidates to send their address. Candidates for Priest's Orders are requested, when they send their papers, to state their place of residence and post town, or their present address.

The act of parliament 59 Geo. III. c. 60, should be referred to by those candidates for orders who are to officiate as clergymen in the colonies or the foreign possessions of the Crown.

*INSTRUCTIONS for obtaining a Licence to a
Stipendiary Curacy.*

It is expected that a curate shall remain in the diocese of the bishop by whom he was ordained, for two years at the least. If he should desire to remove into another diocese before the expiration of such term, it is proper that he should apply to the bishop of that diocese, and also to the bishop who ordained him, for their sanction, stating the special circumstances which induce him to apply.

Where curate, not having been in orders two years, proposes to serve as curate in another diocese.

By the 76th section of 1 & 2 Victoria, c. 106, it is enacted as follows :—

“ And be it enacted, That in every case where a curate is appointed to serve in any benefice upon which the incumbent either does not reside, or has not satisfied the bishop of his full purpose to reside during four months in the year, such curate shall be required by the bishop to reside within the parish or place in which such benefice is situate ; or if no convenient residence can be procured within such parish or place, then within three statute miles of the church or chapel of the benefice in which he shall be licensed to serve—except in cases of necessity, to be approved of by the bishop, and specified in the licence ; and such place of residence shall also be specified in the licence.”

Curate to reside on benefice when the incumbent is non-resident.

By the 83rd section of the same act, it is enacted as follows :—

“ And be it enacted, That it shall be lawful for the bishop of the diocese, and he is hereby required, subject to the several provisions and restrictions in this act contained, to appoint to every curate of a non-resident incumbent such stipend as is specified in this act ; and every licence to be granted to a stipendiary curate, whether the incumbent of the benefice be resident or

Bishops shall appoint stipends to curates ;

and decide
differences
respecting
them.

non-resident thereon, shall specify the amount of the stipend to be paid to the curate; and in case any difference shall arise between the incumbent of any benefice and his curate touching such stipend, or the payment thereof, or of the arrears thereof, the bishop, on complaint to him made, may and shall summarily hear and determine the same, without appeal; and in case of wilful neglect or refusal to pay such stipend, or the arrears thereof, he is hereby empowered to enforce payment of such stipend, or the arrears thereof, by monition, and by sequestration of the profits of such benefice."

The following papers are to be sent to the secretary of the bishop by a curate applying to be licensed:—

1. A Nomination by the incumbent in the following form; but if it is intended as a title for orders, see forms No. 6 and 6a, Deacon's Orders.

NOMINATION FORM A.

The following form of Nomination is intended to serve where the incumbent is non-resident.

Form of
nomina-
tion of a
curate,
where in-
cumbent is
non-resi-
dent.

To the Right Reverend —, Lord Bishop of —.

I, G. H., of —, in the county of — and your lordship's diocese of —, do hereby nominate E. F., bachelor of arts (*or other degree*), to perform the office of a curate in my church of — aforesaid; and do promise to allow him the yearly stipend of —, to be paid by equal quarterly payments, [*as to amount of stipend, see title "Stipends payable to Curates,"*] with the surplice fees, amounting to — pounds per annum (*if they are intended to be allowed*), and the use of the¹ glebe-house, garden, and offices, which he is to

¹ A portion of glebe adjacent to glebe-house, not exceeding four acres, may (by sect. 93) be assigned to a curate residing in glebe house, at a rent to be fixed.

occupy (*if that be the fact; if not, state the reason, and name where and at what distance from the church the curate purposes to reside*): and I do hereby state to your lordship, that the said E. F. does not serve any other parish, as incumbent or curate; and that he has not any cathedral preferment or benefice, and does not officiate in any other church or chapel (*if, however, the curate does serve another church as incumbent, or as curate—or has any cathedral preferment, or a benefice, or officiates in any other church or chapel,—the same respectively must be correctly and particularly stated*): that the net annual value of my said benefice, estimated according to the act 1 & 2 Victoria, c. 106, sects. 8 and 10, is — pounds, and the population thereof, according to the latest returns of population made under the authority of parliament, is —; that there is only one church belonging to my said benefice (*if there be another church or chapel, state the fact*); and that I was admitted to the said benefice on the — day of —, 18—.

Witness my hand this — day of —, in the year of our Lord 18—.

[Signature and address of]

G. H.

Declaration [required by the Clerical Subscription Act, 1865, (28 and 29 Victoria, c. 122) to be written at the foot of the Nomination.]

I, G. H., Incumbent of —, in the county of —, ^{Declaration A.} *bonâ fide* undertake to pay E. F., of —, in the county of —, the annual sum of — pounds as a stipend for his services as Curate; and I, E. F., *bonâ fide* intend to receive the whole of the said stipend.

And each of us, the said G. H. and E. F., declare that no abatement is to be made out of the said stipend in respect of rent or consideration for the use of the glebe-house; and that I, G. H., undertake to pay the same,

and I, E. F., intend to receive the same, without any deduction or abatement whatsoever.

[Signatures of]

G. H.

E. F.

NOMINATION FORM B.

The following form of Nomination is proposed where the incumbent is resident :—

Form of
nomina-
tion of a
curate,
where the
incumbent
is resident.

The same form as A., so far as “quarterly payments;” then proceed as follows :—And I do hereby state to your lordship, that the said E. F. intends to reside in the said parish, in a house (*describe its situation, so as clearly to identify it*) distant from my church — mile (if E. F. does not intend to reside in the parish, then state at what place he intends to reside, and its distance from the said church); and that the said E. F. does not serve any other parish as incumbent or curate; and that he has not any cathedral preferment or benefice, and does not officiate in any other church or chapel—(if however, the curate does serve another parish, as incumbent or as curate,—or has any cathedral preferment or a benefice, or officiates in any other church or chapel,—the same respectively must be correctly and particularly stated).

Witness my hand this — day of —, in the year of our Lord one thousand eight hundred and —.

[Signature and address of]

G. H.

Declaration [required by the Clerical Subscription Act, 1865, to be written at the foot of the Nomination.]

Declara-
tion B.

I, G. H., Incumbent of —, in the county of —, *bond fide* undertake to pay to E. F., of —, in the county of —, the annual sum of — pounds as a stipend for his services as curate; and I, E. F., *bond fide* intend to receive the whole of the said stipend.

And each of us, the said G. H. and E. F., declare that no abatement is to be made out of the said stipend in respect of rent or consideration for the use of the glebe-house; and that I, G. H., undertake to pay the same, and I, E. F., intend to receive the same, without any deduction or abatement whatsoever

[Signatures of]

G. H.

E. F.

2. LETTERS of Orders, Deacon and Priest.

Letters of
orders.

3. LETTERS Testimonial to be signed by three benefited clergymen, in the following form:—

To the Right Reverend —, Lord Bishop of —.

We, whose names are hereunder written, testify and make known that E. F., clerk, bachelor of arts (or ^{Testimo-} *other degree*), of — college, in the university of —, nominated to serve the cure of —, in the county of —, hath been personally known to us for the space of ^{nial.} three years last past; that we have had opportunities of observing his conduct; that during the whole of that time we verily believe that he lived piously, soberly, and honestly, nor have we at any time heard any thing to the contrary thereof; nor hath he at any time, as far as we know or believe, held, written, or taught any thing contrary to the doctrine or discipline of the United Church of England and Ireland; and moreover we believe him in our consciences to be, as to his moral conduct, a person worthy to be licensed to the said curacy.

In witness whereof we have hereunto set our hands

* If the clerk nominated shall have been ordained a less time than three years, the testimonial may be from the time of ordination.

this — day of —, in the year of our Lord one thousand eight hundred and —.

³ A. B., rector of —.

C. D., vicar of —.

I. J., rector of —.

Counter-signature.

To be countersigned, if all or either of the subscribers to the testimonial are not beneficed in the diocese of the bishop to whom it is addressed, by the bishop of the diocese wherein their benefices are respectively situate.

Licence.

On receipt of these papers, the bishop, if he be satisfied with them, will either appoint the clergyman nominated to attend him, to be licensed, or issue a commission to some neighbouring incumbent.

Curate's subscriptions and oath.

Every person licensed to a stipendiary curacy is to make and subscribe the Declaration of Assent⁴ prescribed by the "Clerical Subscription Act, 1865," and to take the oath of canonical obedience:—"I, E, F., do swear that I will pay true and canonical obedience to the Lord Bishop of — in all things lawful and honest.

"So help me God."

Registry of licences.

The licence will be sent by the bishop to the registry-office, and from thence it will be forwarded to the churchwardens.

Declaration to be made in church.

On the first Lord's day on which he officiates in the church in which he is licensed to serve, the curate has publicly and openly to make the declaration of assent in the presence of the congregation there assembled, and at the time of divine service.

³ It is recommended that the clergyman nominating be not a subscriber to the testimonial.

⁴ See form of Declaration of Assent, p. 7.

By the 106th section of the Residence Act (1 & 2 Victoria, c. 106), it is enacted, That no spiritual person shall serve more than two benefices in one day, unless in case of unforeseen and pressing emergency; in which case he shall forthwith report the circumstance to the bishop.

No spiritual person to serve more than two benefices in one day.

The directions as to notices to be given for the curate to give up the cure are contained in the 95th section of the said act; and for his quitting the house of residence, in the 96th section; and as to notice of the curate's intention to relinquish the cure, in the 97th section; and power is given to the bishop by the 98th section, to revoke any licence to a curate (after having given him sufficient opportunity to show reason to the contrary), subject to an appeal, according to the same section, to the archbishop of the province within one month after service of revocation. For the mode of appeal see section 111. The several matters included in this paragraph require to be conducted with legal accuracy.

Notice to curate to quit cure, and house.

Curate's notice to resign.

Bishop may revoke licence, after giving curate opportunity to show reason to the contrary; subject to appeal.

- (1.) FORM of notice by a *new incumbent* to a curate to quit curacy, or to give up possession of house of residence; to be given within six months after admission to the benefice.

I, A. B., clerk, having been duly admitted to the rectory of —, in the county of — and diocese of —, do hereby, in pursuance of the power and authority for this purpose vested in me by virtue of the act of parliament passed in the first and second years of her present Majesty's reign, intituled, "An Act to abridge the holding of benefices in plurality, and to make better provision for the residence of the clergy," give notice to and require you, E. F., clerk, to quit and give up the curacy of — aforesaid [*the following to be*

Notice by a new incumbent to curate to quit curacy [also to give up possession of house, where applicable to the case].

added where applicable—and to deliver up possession of the rectory house of — aforesaid, and the offices, stables, gardens, and appurtenances thereto belonging, and (if any) such part of the glebe land as has been assigned to you] at the expiration of six weeks from the giving of this notice to you.

Witness my hand this — day of —, 18—.

(2.) FORM of notice by an incumbent, to a curate to quit curacy, or to give up house of residence; *but the previous permission of the bishop is required.*

Notice by incumbent (with bishop's written permission) to quit curacy and to give up possession of house, &c.

I, A. B., clerk, rector of —, in the county of — and diocese of —, in pursuance of the power and authority for this purpose vested in me by virtue of the act of parliament passed in the first and second years of her present Majesty's reign, intituled, "An Act to abridge the holding of benefices in plurality, and to make better provision for the residence of the clergy," do hereby, with the permission of the Right Reverend —, Lord Bishop of the diocese of —, aforesaid, signified by writing under his lordship's hand, give notice to and require you, E. F., clerk, my licensed curate of — aforesaid, to quit and give up the said curacy of — [*the following to be added where applicable*—and the rectory house of — aforesaid, and the offices, stables, gardens, and appurtenances thereto belonging, and (if any) such part of the glebe land as has been assigned to you] at the expiration of six calendar months from the giving of this notice to you⁵.

Witness my hand this — day of —, 18—.

⁵ This notice must be dated on a day subsequent to the date of the instrument signifying the bishop's permission, which permission is required by the act 1 & 2 Vict. c. 106. sect. 95, whether the incumbent be *resident* or *non-resident*.

Form of bishop's permission to an incumbent to give his curate notice to quit curacy, or give up possession of house of residence.

(Applicable to Notice No. 2 only.)

I, —, Lord Bishop of —, do hereby, on the application of A. B., clerk, rector of —, in the county of — and my diocese of —, signify my permission for him to require and direct E. F., clerk, his licensed curate at — aforesaid, to quit and give up the said curacy [the following to be added where applicable—and to deliver up possession of the rectory house of — aforesaid, and the offices, outhouses, gardens, and appurtenances thereto belonging, and (if any) such part of the glebe land as has been assigned to the said E. F. as such curate] upon six calendar months' notice thereof being given to such curate.

Form of bishop's permission to incumbent to give notice.

Given under my hand this — day of —, 18—.

The notice No. 1 applies only to an incumbent newly admitted to a benefice, and must be given within six months after such admission.

As to notice No. 1.

The notice No. 2 applies to every other case of an incumbent requiring his curate to quit the curacy. The permission of the bishop is required only in the latter case.

No. 2.

The 112th section contains directions as to the mode in which the notice is to be served; and it directs that "it shall be served personally upon the spiritual person therein named or to whom it shall be directed, by showing the original to him and leaving with him a true copy thereof, or, in case such spiritual person cannot be found, by leaving a true copy thereof at his usual or last known place of residence, and by affixing another copy thereof upon the church door of the parish in

Directions as to due service of notice.

which such place of residence shall be situate." The notice must immediately after the service thereof be returned into the Consistorial Court (or the Court of Peculiars, in the case of an archbishop's or bishop's peculiar—see sect. 108), and be there filed, together with an affidavit of the time and manner in which the same shall have been served.

Legal assistance as to notices recommended. As very great care must be taken strictly to comply with the requisitions of the act in regard to notices, incumbents are recommended, if in doubt, to avail themselves of legal assistance.

Stipends payable to Curates.

As to stipends payable to curates by incumbents instituted, &c. before 20th July, 1813. The stipends to be paid to curates by non-resident incumbents must be in strict conformity with the directions of the act of parliament 1 & 2 Victoria, c. 106. Where incumbents of benefices were instituted before July 20, 1813, a greater stipend than £75 per annum cannot be enforced, but the bishop may add to that sum £15 in lieu of a house.

Scale of stipends to curates by non-resident incumbents instituted, &c. after the 20th July, 1813. The stipends to be assigned to the curates of non-resident incumbents admitted to benefices after the above date, are to be according to the following scale, prescribed by the 85th section :—

The stipend is in no case to be less than £80 per annum, or than the annual value of the benefice, if such value shall not amount to £80.

If the population amounts to 300, the stipend is to be not less than £100 per annum.

If the population amounts to 500, the stipend is to be not less than £120 per annum.

If the population amounts to 750, the stipend is to be not less than £135 per annum.

If the population amounts to 1000, the stipend is to be not less than £150 per annum.

If the value per annum shall not amount to the said respective sums, the stipend is not to be less than the whole value; subject however to deduction (see sects. 91, 92).

Where the annual value of a benefice shall exceed Larger stipends in certain cases. £400, the bishop may (by sect. 86) assign to the curate, resident within the same and serving no other cure, a stipend of £100, though the population may not amount to 300 persons; and where the annual value shall exceed £400, and the population shall amount to 500 persons, the bishop may assign to the curate, resident within the same and serving no other cure, any larger stipend, so that the same shall not exceed by more than £50 per annum the stipend required to be assigned to the curate.

Where the population exceeds 2000, the bishop may (by sect. 86) require the incumbent to nominate two If population above 2000, bishop may require nomination of two curates. curates, with stipends not exceeding together the highest rate of stipend allowed to one curate.

Incumbents who have become incapable of performing their duties from age, sickness, or other unavoidable cause (and to whom, from these or from any other special and peculiar circumstances, great hardship would arise, if they were required to pay the full stipend), may (by sect. 87) be relieved by the bishop, with the consent of the archbishop of the province, The bishop, with concurrence of archbishop, may assign smaller stipends.

The bishop may (by sect. 89) direct that the stipend to a curate licensed to serve two parishes or places shall be less for each by a sum not exceeding £30 per annum than the full stipend. A less stipend may be assigned, if curate serves another parish.

All agreements for payment of a less stipend than that assigned by the licence are (by sect. 90) declared to be void; and if less be paid, the remainder may be afterwards recovered by the curate or his representatives. Agreements to pay less stipends than expressed in licences, to be void.

Curates to pay taxes and rates of residence house in certain cases; and in all other cases, bishop may order sums paid for the same by the curate to be paid by the incumbent.

When a stipend, equal to the whole value of a benefice, is assigned to the curate, he is (by sect. 91) to be liable to all charges and out-goings legally affecting the benefice: and (by sect. 94) when such a stipend as last mentioned is assigned, and the curate is directed to reside in the glebe-house, he is to be liable to the taxes, parochial rates, and assessments of the glebe-house and premises; but in every other case in which the curate shall so reside by such direction, the bishop may, if he shall think fit, order that the incumbent shall pay the curate all or any part of such sums as he may have been required to pay, and shall have paid, within one year, ending at Michaelmas-day next preceding the date of such order for any such taxes, parochial rates, or assessments as should become due at any time after the passing of the act.

Payment of curate's stipend by committee of a lunatic.

Where incumbent is a lunatic, the committee is to pay the curate's stipend (see sect. 79).

Payment of curate's stipends by sequestrators.

Sequestrator to pay to curate the stipend assigned to him by the bishop (see sect. 99). Sequestrator to pay to the curate, during the vacancy of a benefice, the stipend ordered by the bishop (see sect. 100).

For more full particulars as to curates, refer to act 1 & 2 Vict. c. 106, from sect. 75 to 102, and to index to the act.

For more full particulars as to curates, their stipends and allowances, appointment of curates, their residence, revocation of their licences, &c. &c., see the act 1 & 2 Victoria, c. 106, from sect. 75 to 102, both inclusive. The act is set forth in the Appendix, as is also a copious index of reference to the several provisions of the said act.

*INSTRUCTIONS for obtaining a Licence to a
Lectureship.*

THE following papers are to be sent to the secretary to the bishop by the clergyman to be licensed :—

1. A CERTIFICATE of his having been duly elected to the office, or an appointment under the hand and seal of the person or persons having power to appoint; on the face of which instrument it should be shown by whom and in what manner the office had been vacated. Certificate of election.

2. A CERTIFICATE, signed by the incumbent of the church, of his consent to the election or appointment; unless the same is rendered unnecessary by some act of parliament, or otherwise. Certificate of incumbent's consent.

3. LETTERS of Orders, Deacon and Priest. Letters of orders.

4. LETTERS Testimonial, by three beneficed clergy-men. [*See form No. 3. in Instructions as to Licence to Stipendiary Curates; adding, "and moreover we believe him in our consciences to be, as to his moral conduct, a person worthy to be licensed to the said lectureship."*] Testimo-nial.

Before the licence is granted, the "Declaration of Assent," and the Declaration against Simony have to be made and subscribed, and the Oath of Allegiance and Supremacy and the Oath of Canonical Obedience to the bishop have to be taken.

The following are the forms of the declarations and of the oaths :—

I, A. B., about to be admitted and licensed to the Friday evening Lectureship in the church of —, in Declara-tion of assent.

the county of — and diocese of —, do solemnly make the following declaration:—I assent to the Thirty-nine Articles of Religion and to the Book of Common Prayer, and of the ordering of bishops, priests, and deacons. I believe the doctrine of the United Church of England and Ireland, as therein set forth, to be agreeable to the Word of God; and in public prayer and administration of the Sacraments, I will use the form in the said book prescribed, and none other, except so far as shall be ordered by lawful authority.

Declaration that no simoniacal payment or promise has been made.

I, A. B., about to be admitted and licensed to the Friday evening Lectureship in the church of —, in the county of — and diocese of —, solemnly declare that I have not made, by myself or by any other person on my behalf, any payment, contract, or promise of any kind whatsoever, which, to the best of my knowledge or belief, is simoniacal, touching or concerning the obtaining the preferment of the said Lectureship, nor will I at any time hereafter perform or satisfy, in whole or in part, any such kind of payment, contract, or promise made by any other without my knowledge or consent.

Oath of allegiance.

I, A. B., do swear that I will be faithful and bear true allegiance to her Majesty Queen Victoria, her heirs and successors according to law.

So help me God.

Oath of canonical obedience.

I, A. B., do swear, that I will pay true and canonical obedience to the Lord Bishop of — and his successors, in all things lawful and honest.

So help me God.

After the lecturer is licensed, he is to make the Declaration of Assent in the church in which he is licensed to serve. The Clerical Subscription Act does not limit

the time within which it has to be done ; but it will be well to do it on the first Lord's day [or if the lectureship be a weekday one, then on the first day] that the lecturer officiates.

The act 7 and 8 Vict. c. 59, intituled, "An Act for better regulating the Offices of Lecturers and Parish Clerks," is set forth in the Appendix to this work. This act does not affect any lecturer or preacher appointed previous to the 29th of July, 1844, except with his consent. But as to those appointed after that time it authorizes the bishop, with the consent of the incumbent, to require a lecturer or preacher to perform such clerical or ministerial duties as assistant curate, or otherwise, within the parish, &c., as the bishop, with the assent of the incumbent, shall think proper.

A clergyman may be appointed to the office of church clerk, chapel clerk, or parish clerk in any district, parish, or place, and licensed by the bishop with all the emoluments ; and in respect thereof he is to be liable to perform such spiritual and ecclesiastical duties within such district, parish, or place, as the incumbent thereof, with the bishop's sanction, may from time to time require.

Act 7 &
8 Vict.
c. 59. for
better
regulating
the offices
of lecturers
and parish
clerks.

A clergy-
man may
be licensed
to the
office of
church
clerk, &c.,
and liable
to perform
certain
duties.

INSTRUCTIONS for obtaining a Licence to Cure not Stipendiary, and not made a Vicarage by the act 31 and 32 Vict. c. 117, sect. 2.

[As to Stamp Licence, see page 27.]

By that act, section 1, the 9th section of the District Church Tithes Act, 1865, is repealed; and by section 2 "the incumbents of the church of every parish or new parish for ecclesiastical purposes, not being a rector, who is or shall be authorized to publish banns of matrimony in such church, and to solemnize therein marriages, churchings, and baptisms according to the laws and canons in force in this realm, and who is or shall be entitled to take, receive, and hold for his own use and benefit the entire fees arising from the performance of such offices without any reservation thereout, shall from and after the passing of this act, for the purpose of style and designation, but not for any other purpose, be deemed and styled the vicar of such church and parish or new parish, as the case may be; and his benefice shall for the same purpose be styled and designated a vicarage."

The papers to be delivered to the bishop's secretary are—1. Letters of Orders, Deacon and Priest. 2. A nomination to the cure. 3. Testimonial as in the case of licence to a lectureship (*mutatis mutandis*).

The clergyman appointed to the cure, when he sends his papers to the bishop's secretary, should request him to give him full instructions as to what may be necessary in his case with respect to obtaining the bishop's licence, and as to any thing to be done or form to be observed by himself after he is licensed, to give validity to the licence⁶.

⁶ If the nominee be a pluralist, see last paragraph, p. 31.

Stamp Duties payable on Appointments to Ecclesiastical Benefices, &c.

By act 27 Victoria, c. 18, the following stamp duties are imposed :—

For and upon any donation or presentation, by whomsoever made, of or to any ecclesiastical benefice, dignity, or promotion :

Also for and upon any collation by any archbishop or bishop, or by any other ordinary or competent authority to any ecclesiastical benefice, dignity, or promotion :

Also for and upon any institution granted by any archbishop, bishop, chancellor, or other ordinary, or by any Ecclesiastical Court, to any ecclesiastical benefice, dignity, or promotion, proceeding upon the petition of the patron to be himself admitted and instituted, and not upon a presentation :

Also for and upon any nomination by Her Majesty, her heirs, or successors, or by any other patron, to any perpetual curacy :

Also for and upon any licence to hold a perpetual curacy not proceeding upon a nomination :

Where the net yearly value of any such benefice, dignity, promotion, or perpetual curacy—

	£	s.	d.
Shall exceed £50 and not exceed £100	1	0	0
„ 100 „ 150	2	0	0
„ 150 „ 200	3	0	0
„ 200 „ 250	4	0	0
„ 250 „ 300	5	0	0
And where such value shall exceed 300	7	0	0

And also (where such value shall exceed £ s. d.
£300) for every £100 thereof over and
above the first £200, a further duty of - 5 0 0

Note.—The yearly value of such benefice, dignity, promotion, or perpetual curacy in any and every of the cases aforesaid to be ascertained and determined by the certificate of the Ecclesiastical Commissioners for England and Ireland respectively, to be written on the instrument charged with duty; provided always, that two or more benefices, or a benefice and any other ecclesiastical preferment episcopally or permanently united shall be deemed one benefice only.

Exemptions.

1. Any collation or appointment by any archbishop or bishop to any cathedral, prebend, dignity, or honorary canonry having no endowment or emolument attached thereto.
2. Any institution proceeding upon a presentation.

INSTRUCTIONS for obtaining Institution or Collation to a Benefice.

[As to Stamp, see page 27.]

THE following papers are to be sent to the bishop by the clergyman who is to be instituted.

1. PRESENTATION to the benefice, executed by the patron ; if the person to be presented is to hold the benefice under an engagement to resign, he is referred to Instructions, in this work, for Resignations of Benefices and Engagements to resign ; such engagement must be completed before the execution of the presentation.

When the bishop is patron of a benefice in his own diocese, the form of appointment of a clergyman thereto is called a collation ; and when the patron of a benefice intends to hold it himself, the course is for him to send a petition to the bishop to institute him. No stamp is required on the petition.

In the case of collation, and also of institution proceeding upon the petition of the patron, the certificate of yearly value must be written upon, and the stamp affixed on, the instrument of collation or of institution respectively.

In order to procure the certificate of value from the Ecclesiastical Commissioners, application should be made to them in the following form, addressed to their secretary, 10, Whitehall Place.

Application for Certificate of Value.

TO THE ECCLESIASTICAL COMMISSIONERS FOR
ENGLAND.

The — of —, in the county of — and diocese of —, and in the patronage of —, having become vacant on the — day of — last, by the — of the Rev. — ; and the Rev. — being about to be ad-

How to
obtain cer-
tificate
of yearly
value.

mitted thereto, the Ecclesiastical Commissioners for England are requested to certify the net yearly value thereof, according to the provisions of the act 27 Victoria, c. 18.

(Date) —.

(Signature) —.

(Address) —.

In answer to this application, a form of certificate will be sent from the office of the Ecclesiastical Commissioners, which is to be indorsed on the instrument of presentation, &c., and then transmitted to the same office for signature; after which, the presentation, &c., will, on being taken to the Stamp Office, be properly stamped.

Letters of
orders.

2. LETTERS of Orders, Deacon and Priest.

Testimo-
nial.

3. LETTERS Testimonial by three beneficed clergymen, in the following form:—

To the Right Reverend —, Lord Bishop of —.

We, whose names are hereunder written, testify and make known, that A. B., clerk, A.M. (*or other degree*), presented (*or to be collated, as the case may be*) to the rectory or vicarage (*as the case may be*) of —, in the county of —, in your lordship's diocese, hath been personally known to us for the space of three years last past; that we have had opportunities of observing his conduct; that, during the whole of that time we verily believe that he lived piously, soberly, and honestly; nor have we at any time heard any thing to the contrary thereof; nor hath he at any time, as far as we know or believe, held, written, or taught any thing contrary to the doctrine or discipline of the United Church of England and Ireland; and, moreover, we believe him in our consciences to be, as to his moral conduct, a person worthy to be admitted to the said benefice.

In witness whereof we have hereunto set our hands, this — day of —, in the year of our Lord 18—.

C. D., rector of —.

E. F., vicar of —.

G. H., rector of —.

If all the subscribers are not beneficed in the diocese of the bishop to whom the testimonial is addressed, the countersignature of the bishop of the diocese wherein their benefices are respectively situate is required. Counter-signature.

4. A short statement of the title of the patron, in case of a change of patron since the last incumbent was presented. Patron's title.

The same declarations are to be made and subscribed and oaths taken, on institution and collation, as by a clergyman on being licensed to a lectureship; with the addition, in the case of a cathedral preferment, of an oath to observe the statutes of the cathedral. Subscriptions and oaths.

On the first Lord's day on which he officiates in the church, the new incumbent thereof is publicly and openly, in the presence of the congregation there assembled, to read the Thirty-nine Articles of Religion; and immediately after reading the same he is to make the Declaration of Assent, adding, after the words "articles of religion" in the said Declaration, the words, "which I have now read before you."

In case the clergyman presented, or to be collated⁷, is already a pluralist, and intends to retain either a cathedral preferment, or a benefice of which he may be in possession, with that which he is about to take, he is recommended to refer to the subject of "Pluralities," treated of in this work, before he is instituted or collated, and to attend to the instructions there given. Reference to the subject of "pluralities," in the case of a pluralist who may be about to take some other benefice or cathedral preferment.

⁷ Or if nominated to a cure not stipendiary. [See p. 26.]

INSTRUCTIONS as to Induction to a Benefice.

Induction mandate. THE clergyman is to take or send the bishop's mandate of induction to the proper office, for the purpose of procuring the archdeacon's mandate, directed to all and singular rectors, vicars, &c., in order to obtain induction. But if the bishop's mandate is directed in general to all and singular rectors, vicars, &c., any clergyman in the diocese may induct by virtue of that mandate only.

The usual Form of Induction is this :—

Induction. The person empowered to induct, taking the hand of the person to be inducted, lays it on the key of the church in the church-door, or on the ring of the door; or, if the church be ruined, it is done by laying his hand on the wall or the fence of the church-yard, and saying, "By virtue of this mandate I induct you into the real, actual, and corporal possession of the rectory [or vicarage] of —, with all its fruits, members, and appurtenances." He then puts the new incumbent into possession of the church; who, when he has tolled the bell, comes forth, and the inductor indorses and signs a certificate of such induction on the mandate, attested by those who witnessed the same.

FORM of Certificate of Induction.

Certificate of induction. MEMORANDUM, That on the — day of —, 18—, I, M. N., rector [vicar, or curate, as the case may be] of —, in the county of — and diocese of —, by virtue of the within-written mandate, did induct the within-named A.B., clerk, into the real and actual pos-

session of the within-mentioned rectory [*or vicarage*] of —, with all the rights, members, and appurtenances thereof. Witness my hand,

M. N.

The said A. B. was so inducted
in the presence of us,

O. P. } Churchwardens *or*
Q. R. } Inhabitants

(*as the case may be*).

INSTRUCTIONS as to Reading in.

On the first Lord's day on which he officiates in the church, the new incumbent thereof is publicly and openly, in the presence of the congregation there assembled, to read the Thirty-nine Articles of Religion, and immediately after reading the same he is to make the declaration of assent, adding after the words "Articles of Religion," in the said declaration, the words, "which I have now read before you."

The incumbent should be careful to obtain from the churchwardens, or some other inhabitants of the parish, a certificate as here set forth, a printed form of which is usually supplied by the bishop's secretary at the time of institution or collation. The incumbent should keep the certificate.

MEMORANDUM, That on Sunday, the — day of —, in the year of our Lord one thousand eight hundred and —, A. B., rector [*or vicar*] of the rectory [*or vicarage*] of the parish church of —, in the county of — and diocese of —, did in his parish church of — aforesaid publicly and openly, in the presence of the congregation there assembled, read the Articles of Religion commonly called the Thirty-nine Articles agreed upon in Convocation in the year of our Lord 1562, and did immediately after reading the same make the fol-

p

lowing Declaration of Assent, videlicet: "I, A. B., do
 "solemnly make the following declaration:—I assent
 "to the Thirty-nine Articles of Religion which I have
 "now read before you, and to the Book of Common
 "Prayer, and of the Ordering of Bishops, Priests, and
 "Deacons. I believe the Doctrine of the United Church
 "of England and Ireland, as therein set forth, to be
 "agreeable to the word of God; and in public prayer
 "and administration of the Sacraments I will use the
 "form in the said Book prescribed, and none other, ex-
 "cept so far as shall be ordered by lawful authority."

Witness our hands the day and year above written.

C. D. }
 E. F. } *Churchwardens.*

G. H. }
 I. J. } *Parishioners.*

Dilapida-
 tions.

One of the first subjects to which a new incumbent must in prudence turn his attention, is to ascertain, by the employment of a competent architect, surveyor, or builder, the amount fairly due to him from his predecessor or his personal representatives for dilapidations. It is not unusual for both parties to leave the amount to be estimated by the same person: if this plan is not adopted, each party may appoint a valuer, with power to such valuers to name an umpire, to decide in case they differ. The same mode may be adopted as to fixtures.

Money re-
 ceived for
 dilapida-
 tions to be
 laid out
 within two
 years.

Monies received for dilapidations from a former incumbent, or his representatives, are, by the act 14 Eliz. c. 11, sect. 18, to be laid out within two years, under the penalty of forfeiting double the value to the Crown.

Powers to
 enforce the
 sustenta-
 tion of par-
 sonage
 houses

It is much to be desired that the Legislature should pass an act for the better sustentation of parsonage houses, so that by summary powers inquiry might be made periodically as to the state of them, and reparation

of the defects to be found on such inquiry might be much ensured, convenient time being allowed for the purpose. wanted. By some such means it is thought that the injury which is now so often sustained not only by the successor but by the family of an incumbent leaving his house and premises in a dilapidated condition, might be prevented in future.

The penalties attending non-residence attach to incumbents who, not being resident, neglect to repair their houses of residence after monition. See act 1 & 2 Vict. c. 106, sect. 41. Penalty for neglecting to repair.

First Fruits and Tenths.

By the act of parliament, 1 Vict. c. 20, intituled "An Act for the consolidation of the Offices of First Fruits, Tenths, and Queen Anne's Bounty," the collection of First Fruits and Tenths is transferred to the latter office, and is made by the Treasurer of the First fruits and tenths received by the Treasurer of Queen Anne's Bounty. Governors of Queen Anne's Bounty.

First Fruits.

As some benefices are discharged from the payment of First Fruits, it is recommended that incumbents, immediately after institution, do write to the Treasurer of the Governors of Queen Anne's Bounty, to inquire if any and what sum is payable for First Fruits. The same are by act 26 Henry VIII. c. 3, sect. 2, due on Institution, but it is the practice to allow three months afterwards for payment by the incumbent to the Treasurer, at the Bounty Office, Dean's Yard, Westminster, or by the remittance to him of a draft on a London banker. First fruits when and how to be paid.

Yearly Tenths.

The Yearly Tenths of benefices and other ecclesiastical preferments subject thereto become due on the 25th day of December, and those due to the Governors Yearly tenths due to Governors of

Queen
Anne's
Bounty,
when and
how to be
paid.

of Queen Anne's Bounty are to be paid to their Treasurer at the beginning of every year, at the Bounty Office, or by the remittance to that office of a draft on a London banker, or by a post-office order on the Westminster or the Charing Cross post-office, payable to Christopher Hodgson, the present Treasurer. If the benefice becomes vacant before the 25th December, the whole sum for Tenths is to be paid to the Treasurer by the new incumbent.

Payment
of tenths
early in
each year
solicited.

The number of clergymen and others from whom Tenths are annually to be collected is no less than 5000 : the collection is therefore attended with considerable trouble ; *but a great part of that will be prevented, if the parties from whom Tenths are due to the Governors will, without notice from the Treasurer, kindly and considerably pay to him the same early in each year, which he (the compiler of this work) earnestly solicits them to do.*

*INSTRUCTIONS for the proper Resignation of a
Benefice, and as to Engagements to resign.*

A CLERGYMAN desirous to resign ecclesiastical preferment must state the reasons which induce him to do so to the bishop, and if the latter agrees to accept the resignation, the proper instrument is to be prepared by the bishop's secretary or other officer, to be executed by the incumbent, in the presence of a notary public and two credible witnesses; and if such resignation cannot conveniently be tendered by the incumbent in person, to the bishop, proctors or substitutes may be named in the deed of resignation, for them, or one of them, in the name of the incumbent, to exhibit such resignation to the bishop; who, upon the same being exhibited by the incumbent or his proctor, will declare his acceptance thereof, and will order that intimation of the avoidance of the benefice (if not in the bishop's own gift) be given to the patron.

As to
resigna-
tions.

When an exchange of benefices takes places, it is usual for each party (after the consent of the respective bishops and patrons has been obtained) to resign his benefice by deed of resignation, with a condition added, "that unless he is presented, instituted, and inducted to the rectory of —, in the county of — and "diocese of —, the resignation shall be void."

Resigna-
tion on ex-
change of
benefice
with con-
dition to
be added.

The proper stamp for a resignation is the common deed stamp; and the attestation by the notary requires a 1s. stamp.

Stamp
duty.

A resignation is not complete until accepted by the bishop; and therefore until after such acceptance the patron may not present a new clerk to the resigned living.

Accept-
ance of
resigna-
tion.

The Act of Parliament relating to engagements to resign, 9 Geo. IV. c. 94, is set forth in the Appendix.

Engage-
ments to
resign.

If two nominees, relationship of each to patron is indispensable. Engagement to be made before presentation.

If the engagement is proposed to be made for the resignation in favour of one of two nominees, each of them must be related by blood, or marriage, in the degrees specified (uncle, son, grandson, brother, nephew, or grand-nephew), to the patron, or one of the patrons, of the preferment, &c., &c. In every case the engagement must be entered into previous to the presentation. [See 1st and 2nd sections.]

Deed to be deposited in registry within two months.

Engagements to resign are not effectual, unless one part of the deed or instrument be deposited in the proper registry within two months after the date thereof. [See 4th section.]

Certain particulars to be stated in deeds of resignation made in pursuance of legal engagements.

Where a resignation is made, in pursuance of an engagement entered into under the provisions of this act, the instrument of resignation is to contain certain statements, as directed by the 5th section of that act: "And be it further enacted, That every resignation to be made in pursuance of any such engagement as aforesaid shall refer to the engagement in pursuance of which it is made, and state the name of the person for whose benefit it is made; and that it shall not be lawful for the ordinary to refuse such resignation, unless upon good and sufficient cause to be shown for that purpose; and that such resignation shall not be valid or effectual except for the purpose of allowing the person for whose benefit it shall be so made to be presented, collated, nominated, or appointed, to the spiritual office thereby resigned; and shall be absolutely null and void, unless such person shall be presented, collated, nominated, or appointed as aforesaid, within six calendar months next after notice of such resignation shall have been given to the patron or patrons of such spiritual office."

Engagements to be with private patrons only.

No patron may be a party to an engagement for the resignation to him of a benefice, or other spiritual office, who is not possessed of the patronage, as private property. Engagements cannot be made where the presentation is by the Queen in right of the crown or duchy

of Lancaster, nor by any archbishop, bishop, or other ecclesiastical person in right of his archbishoprick, bishoprick, or other ecclesiastical living, office, or dignity; or by any other body politic or corporate, whether aggregate or sole, or by any other person or persons, in right of any office or dignity, or by any company or any feoffees or trustees for charitable or other public purposes. [See 6th section.]

It is necessary to observe, that no engagement to resign, unless it be made in strict conformity with this act, can be entered into without rendering the parties to it liable to the severe penalties of the act 1 Eliz. c. 6; which observation applies equally, whether such illegal engagement be by verbal promise, or by an instrument in writing.

As to the illegality of engagements whether by verbal promise, &c.

Not only the letter but the spirit and intent of this act must be taken well into consideration, on all points arising out of it. The act would probably be construed adverse in its spirit to the validity of a resignation by a party who may have entered into an engagement to resign, unless the purpose for which such engagement was made, were, after the resignation, faithfully carried out.

Attention recommended to the spirit of the act.

As to a Sequestration, and providing for the Duty during the Vacancy of a Benefice.

It is the duty of the churchwardens, on a benefice becoming vacant, to obtain from the registry-office of the diocese a writ of sequestration, and to make (with the sanction of the bishop) due provision for the performance of the duty *during* the vacancy.

Sequestration on avoidance.

By the act 1 & 2 Vict. c. 106, sect. 100, it is enacted as follows:—

“And be it enacted, That upon the avoidance of any benefice, by death, resignation, or otherwise, the sequestrator appointed by the bishop shall, out of the stipend of curate of sequestrated

benefice to be paid by sequestrator. profits thereof which shall come to his hands, pay to the curate or curates, *appointed by such bishop to perform the ecclesiastical duties of such benefice during the vacancy thereof*, such stipend or stipends as shall be ordered to be paid to him or them by such bishop, not exceeding the respective stipends allowed by this act, and in proportion only to the time of such vacancy."

Proviso for payment by succeeding incumbent, where profits during sequestration insufficient. And by the sect. 101, it is provided, "That if the profits of such benefice which shall have come to the hands of such sequestrator during the vacancy thereof, shall not be sufficient to pay such stipend, the same, or so much thereof as shall remain unpaid, shall be paid to such curate by the succeeding incumbent of such benefice out of the profits thereof."

As to the Admission and Installation of a Dean or Canon.

As the mode of appointment to, and obtaining possession of, a deanery and a canonry varies in different cathedrals and collegiate churches, it will be prudent to make special inquiry on the subject, and as to all the forms to be observed, of the chapter clerk.

Reference to the subject of pluralities. It is particularly recommended that before admission and installation reference be had to the subject of "Pluralities" in this work, because it relates to cathedral preferments as well as to benefices.

SUMMARY of the Provisions of certain Acts of Parliament, which are referred to, on the Subject of the holding of Cathedral Preferments and Benefices in Plurality.

I. By the 9th section of the act 13 & 14 Vict. c. 98, intituled "An Act to amend the Law relating to the holding of Benefices in Plurality," it is enacted "that nothing hereinbefore contained shall be construed to prejudice or affect the right of possession in any preferment or benefice to which any spiritual person shall have been admitted, instituted, or licensed, or which shall have been otherwise granted to any spiritual person, before the passing of this act."

Saving of right of possession in preferments and benefices to the incumbents thereof.

II. And by the 10th section of the same act it is enacted "that nothing hereinbefore contained shall be construed to prevent any spiritual person possessed of one or more than one benefice on the 14th day of August, 1838, and to whom or in trust for whom the advowson of, or the next presentation or nomination to, any other benefice has been conveyed, granted, or devised by any deed or will made before the 23rd day of December, 1837, from taking the said last mentioned benefice, and holding together such benefice and any one such first mentioned benefice." See also the 12th and 13th sections of the act 1 & 2 Vict. c. 106, intituled "An Act to abridge the holding of Benefices in Plurality, &c.," as to the reservation of the before-mentioned rights respectively.

Saving of rights under conveyances and devises of advowsons, &c., made before 23rd December, 1837.

III. Two benefices may be held together [by dispensation—See paragraph No. VIII.], *subject to the following provisions* :—

Two benefices may be held together, subject to certain provisions. Distance.

- (1.) The distance from church to church is not to exceed three miles by the nearest road. (13 & 14 Vict. c. 98, sect. 1.)

Yearly
value.

- (2.) The annual value of one of them is not to exceed 100*l*.⁸ (13 & 14 Vict. c. 98, sect. 1).

Popula-
tion.

- (3.) As to population—if the population of one of the two benefices is more than 3000, the population of the other is not to exceed 500. (1 & 2 Vict. c. 106, sect. 4).

Exception
to the pre-
ceding
provision.

By the 5th sect. 1 & 2 Vict. c. 106, it is enacted, that in case the bishop or bishops (as the case may be) to whom any two benefices, within the distance of *ten*⁹ miles from each other, should respectively be subject, which, under the provision thereinbefore contained [section 4], might not be holden together¹, but one of which benefices should be below the yearly value of 150*l*., and the population of which should exceed 2000 persons, should think it expedient that the incumbent of one of such benefices should be permitted to hold the said two benefices together, the said bishop or bishops should be at liberty, on application to him or them for that purpose by such incumbent, to state, in writing, the reason why such benefices should be holden together; and in such case it should be lawful for the said incumbent to hold the said two benefices together.—In this, as in every case of the holding of two benefices together, a dispensation must be obtained.

Two bene-
fices and a
cathedral
preferment
may not be
held together,

- (4.) Two benefices and a cathedral preferment may not be held together; neither may two cathedral preferments. [See paragraph No. XI.]

A cathed-
ral pre-
ferment

A cathedral preferment and a benefice may be held

⁸ There is now no restriction as to the *joint* yearly value of the two benefices.

⁹ Now three miles from church to church.

¹ One of the benefices must not exceed the yearly value of 100*l*.
See 1st sect. 13 & 14 Vict. c. 98.

together subject to the provisions with respect to deans, heads of colleges, &c., and minor canons next referred to; and a dispensation for the purpose is not required.

For the special provisions on the subject of pluralities which relate to "Deans" (appointed after certain periods) see the following paragraph, No. IV.; "Archdeacons," No. V.; "Heads of colleges in Oxford and Cambridge," and "the Warden of the university of Durham," No. VI.; "Minor Canons," No. VII.; and with respect to the holding of certain "Offices in cathedrals," and of "Honorary Canonries and unendowed Prebends," &c., with other preferences, see Nos. IX. and X.

and a benefice may be held together, except in certain cases. As to provisions on the subject of pluralities affecting certain persons, and also certain offices, honorary prebends, &c.

IV.—*As to Deans.*

It is by act 13 & 14 Vict. c. 94, sect. 19, enacted that no spiritual person appointed to the deanery of any cathedral or collegiate church after the 10th day of April, 1850, shall accept to take and hold therewith any benefice not situate within the city or town of the cathedral or collegiate church in which he shall hold such deanery, and where any spiritual person so appointed after the said 10th day of April holds at the time of his admission to such deanery any benefice not situate within such city or town, such benefice, unless sooner avoided, shall become void on the expiration of six calendar months from the time of his admission to such deanery: Provided always, that the income of any benefice which may be holden with any such deanery shall in no case exceed the amount or sum of 500*l.* per annum. And by act 13 & 14 Vict. c. 98, sect. 5, it is enacted that it shall not be lawful for any person appointed after the passing of this act to the deanery of any cathedral church to hold the office of head rector of any college or hall within either of the

Restriction as to a benefice to be held by a dean appointed after April 10, 1850.

universities of Oxford or Cambridge, or the office of provost of Eton college, or of warden of Winchester college, or of master of the Charterhouse, together with his deanery: Provided always, that nothing herein contained shall apply to the dean of the cathedral church of Christ in Oxford as chief ruler of the college there maintained.

What may be held by an arch-deacon. V. An archdeacon may hold with his archdeaconry two benefices² within the prescribed limit as to distance, yearly value, and population, one of them being within the diocese of the bishop of which his archdeaconry forms a part; or he may hold with his archdeaconry, one cathedral preferment in any cathedral or collegiate church of the diocese (of which his archdeaconry forms a part) and one benefice situate within such diocese. (1 & 2 Vict. c. 106, sect. 2.) By act 4 & 5 Vict. c. 39, sect. 10, this provision is applied to benefices locally situate within the diocese of which such archdeaconry shall form a part, although the same may not be subject to the jurisdiction of the bishop of such diocese.

Restriction as to heads of colleges in Oxford and Cambridge, and the warden of Durham holding in plurality. VI. The head ruler of any college or hall within either of the universities of Oxford or Cambridge, and the warden of the university of Durham, respectively holding any benefice, are prevented, after the 14th day of August, 1850, from taking and holding therewith any cathedral preferment or any other benefice; and if holding any cathedral preferment, from taking and holding therewith any benefice; but they may hold any benefice or cathedral preferment permanently attached to or forming part of the endowment of their office. (13 & 14 Vict. c. 98, sect. 6.)

² See paragraph No. III., as to limited distance, value, and population; and No. VIII., as to a dispensation being necessary in every case for holding two benefices together.

VII. A minor canon of a cathedral or collegiate church appointed after 11th day of August, 1840, may not hold with his minor canonry any benefice beyond six miles from such church. (3 & 4 Vict. c. 113, sect. 46.) And it is by act 4 & 5 Vict. c. 39, sect. 15, enacted that, notwithstanding any thing in the said act of 3 & 4 Vict. contained, any minor canon in any cathedral or collegiate church may take and hold together with his minor canonry any benefice within the distance prescribed in the said act, namely, six miles.

VIII. Two benefices may not *in any case* be held together, without a dispensation, to be granted by the Archbishop of Canterbury, under the seal of his office of faculties. If the archbishop should refuse to grant such dispensation, an appeal lies to her Majesty in council. (1 & 2 Vict. c. 106, sect. 6, and 13 & 14 Vict. c. 98, sect. 2.) For the mode of proceeding to obtain a dispensation to hold together two benefices, see the instructions on that head in this work.

IX. Spiritual persons holding any cathedral preferment, with or without a benefice, may hold therewith any office in the same cathedral or collegiate church, the duties of which are statutably or accustomably performed by them. (1 & 2 Vict. c. 106, sect. 2.)

X. An honorary canonry, or a prebend, dignity, or office not in any manner endowed, or whereof the endowments shall have been vested in the Ecclesiastical Commissioners for England, or which may hereafter be endowed to an amount not exceeding 20*l.* by the year, may be held with more benefices than one, 4 & 5 Vict. c. 39, sect. 3; and by act 13 & 14 Vict. c. 98, sect. 11, the foregoing provision is extended so as to authorize the holding of one benefice and one cathedral preferment in the same church, with such honorary canonry, prebend, dignity, or office.

When acceptance of cathedral preferment or benefice will vacate any before taken.

See also 7 sect. 13 & 14 Vict. c. 98.

Declaration to be made in certain cases before acceptance of preferment.

XI. By the 11th sect. act 1 & 2 Vict. c. 106³, it is enacted "that if any spiritual person, holding any cathedral preferment or benefice, shall accept any other cathedral preferment or benefice, and be admitted, instituted, or licensed to the same contrary to the provisions of this act, every cathedral preferment or benefice so previously held by him shall be and become, *ipso facto*, void, as if he had died, or had resigned the same, any law, statute, canon, usage, custom, or dispensation to the contrary notwithstanding; and if any spiritual person holding any two or more benefices shall accept any cathedral preferment, or any other benefice, or if any spiritual person holding two or more cathedral preferments shall accept any benefice, or if any spiritual person holding any cathedral preferment or preferments, and benefice or benefices, shall accept another benefice, he shall, before he is instituted, licensed, or in any way admitted to the said cathedral preferment or benefice, in writing under his hand⁴, declare to the bishop or bishops within whose diocese or dioceses any of the cathedral preferments or benefices previously holden by him are situate, which cathedral preferment and benefice, or which two benefices (such two benefices being tenable together under the provisions of this act), he proposes to hold together; and a duplicate of such declaration shall by such spiritual person be transmitted to the registry of the diocese and be there filed; and immediately upon any

³ The provisions in this section are limited by the act 13 & 14 Vict. c. 98, sects. 1 & 2, which ought to be referred to.

⁴ If an incumbent of a cathedral preferment and a benefice desires to take another cathedral preferment, it seems to be requisite, before he accepts it, for him to resign by deed the cathedral preferment held by him if it be his intention to retain the benefice, because the direction concerning a declaration does not appear in terms to apply to such a case. He is recommended to take legal advice in such a case, as to making the declaration or resignation, or both.

such spiritual person being instituted, licensed, or in any way admitted to the cathedral preferment or benefice which he shall have accepted as aforesaid, such cathedral preferment or preferments, benefice or benefices, as he previously held, and as he shall not as aforesaid have declared his intention to hold, or such benefice as shall not be tenable under the provisions of this act with such newly-accepted benefice, shall be and become, *ipso facto*, void, as if he had died or had resigned the same: and if such spiritual person shall in any such case refuse or wilfully omit to make such declaration as aforesaid, every cathedral preferment and benefice which he previously held shall be and become, *ipso facto*, void as aforesaid: Provided always, that nothing herein contained shall be construed to affect the provision hereinbefore made with respect to archdeacons or with respect to spiritual persons holding with any cathedral preferment, and with or without a benefice, offices in the same cathedral or collegiate church."

And by the 7th sect. act 13 & 14 Vict. c. 98, it is enacted "that if any spiritual person holding any benefice or benefices shall accept any other benefice, and shall be admitted, instituted, or licensed thereto, contrary to the provisions of this act, every such benefice or benefices which he previously held shall become, *ipso facto*, void, &c."

Acceptance of benefice contrary to act, to avoid any benefice before held.

An incumbent of a cathedral preferment and a benefice who intends to give up the cathedral preferment so held by him, and to take and hold with his benefice another cathedral preferment, is recommended before his admission thereto to resign by deed the cathedral preferment which he intends to give up, to prevent rendering void both the cathedral preferment and the benefice so held by him by the acceptance of the new cathedral preferment. [See foot-note, page 46.]

Resignation of a cathedral preferment held with a benefice to be made before admission to another cathedral preferment.

Declara-
tion to be
trans-
mitted to
bishop,
and copy
filed in
registry.

XII. With respect to the declaration required to be made by a pluralist [see paragraph No. XI.], the same must be transmitted to the bishop of the diocese or the bishops of the respective dioceses (as the case may be), to whom the same is addressed before the incumbent is admitted to the cathedral preferment or benefice to which he is appointed or presented, and a duplicate of such declaration must at the same time be transmitted to the registry or registries of the diocese or respective dioceses of such bishop or bishops to be there filed.

Form of Declaration.*

Form of
declara-
tion.

To the Right Reverend —, Lord Bishop of —, I, C. H., canon residentiary of the cathedral church of —, and vicar of —, in the county of — and diocese of —, being about to be collated, or instituted, or licensed to, or to take by donation (*as the case may be*) the — of R., in the county of — and diocese of —, do by this writing, under my hand, declare to your lordship, that I propose to retain the said canonry of —, and to hold the same, together with the said — of R., to which I am about to be collated, instituted, or licensed, or which I am about to take by donation (*as the case may be*).

Witness my hand this — day of —, one thousand eight hundred and —.

[Signature.]

Signed in the }
presence of }

[one witness.]

In case C. H. should prefer to retain his vicarage, the form is to be altered accordingly.

* Should the incumbent, who is required by the act to make a declaration, omit to do so, or to deposit a duplicate of it in the registry before admission to *other* preferment, the preferment he holds will become void.

As to resignation in a particular case,—see foot-note, page 46.

Another Form of Declaration.

To the Right Reverend —, Lord Bishop of —, Another form of declaration.
 I, M. N., rector of O., and vicar of P., in the county of — and diocese of —, being about to be col-
 lated, instituted, or licensed to, or to take by dona-
 tion (*as the case may be*) the — of S., in the county
 of — and diocese of —, do by this writing,
 under my hand, declare to your lordship, that I
 propose to retain my said vicarage of P., and to hold
 the same together with the said — of S.

Witness my hand this — day of —, in the
 year of our Lord one thousand eight hundred
 and —.

[*Signature.*]

Signed in the }
 presence of }
 [one witness.]

It is recommended to every (pluralist) incumbent Evidence of having trans- mitted declaration.
 who is required by act of parliament to make the
 declaration here treated of to be, for his own security,
 exceedingly particular in transmitting the proper form
 of declaration to each bishop concerned, and a duplicate
 to the registry of each such bishop, before he proceeds
 to take possession of a cathedral preferment or a
 benefice, and to retain sufficient evidence of having
 duly transmitted the same.

As to resignation of a cathedral preferment by the As to resignation of cathed- ral preferment.
 incumbent holding therewith a benefice, before admis-
 sion to another cathedral preferment, see foot-note,
 page 46.

A pluralist about to take other cathedral prefer- As to resigna- tion or declara- tion to be made by a pluralist
 ment, or a benefice, should satisfy himself whether
 previous resignation by deed, or the declaration before
 mentioned, or both be necessary in his case.

incumbent before taking other cathedral preferment or a benefice.

E

Definition
of the term
"cathedral
preferment."

XIII. The definition of the term "cathedral preferment," is given in the 124th section of the act 1 & 2 Vict. c. 106, as follows:—"In all cases where the term 'cathedral preferment' is used in this act, it shall be construed to comprehend (unless it shall otherwise appear from the context) every deanery, archdeaconry, prebend, canonry, office of minor canon, priest-vicar, or vicar-choral, having any prebend or endowment belonging thereto, or belonging to any body corporate consisting of persons holding any such office; and also every precentorship, treasurer'ship, sub-deanery, chancellorship of the church, and other dignity and office in any cathedral or collegiate church; and every master-ship, wardenship and fellowship in any collegiate church."

As to the
term "benefice."

XIV. As to the term "benefice," the definition of it is given in the 3rd section of the act 13 & 14 Vict. c. 98, as follows:—"The term 'benefice,' in this act, shall be taken to mean benefice with cure of souls, and no other; and therein to comprehend all parishes, perpetual curacies, donatives, endowed public chapels, parochial chapelries, and chapelries or districts belonging or reputed to belong, or annexed or reputed to be annexed to any church or chapel, any thing in any other act to the contrary notwithstanding."

Mode of
estimating
annual
value.

XV. The mode of estimating the annual value of a benefice is prescribed by the 4th section of the act 13 & 14 Vict. c. 98, as follows:—"That for the purpose of estimating the annual value of such benefice there shall be considered as deducted from the gross amount of the annual value all taxes, rates, tenths, dues, and permanent charges and outgoings, but not to deduct or allow for any stipend or stipends to any stipendiary curate or curates, nor for any such taxes or rates in respect of the house of residence of any benefice, or of the glebe land belonging thereto, as are usually paid by tenants or occupiers, nor for moneys expended in the repair or

improvement of the house of residence and buildings and premises belonging thereto."

XVI. As to the ascertainment of the population, it is directed by the 130th section of the act 1 & 2 Vict. c. 106, as follows:—"That wherever the population of any place shall be required by this act to be ascertained, the same shall be taken from the latest returns of population made under any act of parliament for that purpose, at the time when the question shall arise, if such returns shall apply to the place respecting which the question shall be; but if such place shall only form part of a parish or district named in such returns, then such returns shall be taken to represent truly the population of the parish or district named therein, and from them the population of the place required shall be computed according to the best evidence of which the subject shall be capable."

Popula-
tion, how
to be
computed.

*THE Mode of proceeding to obtain a Dispensation to
hold two Benefices.*

Certain papers to be sent to the bishop. THE following are the papers to be transmitted to the bishop of the diocese in which the benefice about to be taken and held with another is situate, in order to obtain a dispensation :—

Presen-
tation or
nomina-
tion. 1. PRESENTATION or nomination to the second living,
or petition, if the clergyman happens to be patron.

Letters of
orders. 2. LETTERS of Orders, Deacon and Priest.

Two tes-
timonials,
one to the
archbishop
of Canter-
bury, the
other to
the bishop. 3. Two LETTERS testimonial, each signed by three
beneficed clergymen, one addressed to the archbishop
of Canterbury, and the other to the bishop of the dio-
cese in which the second living is, in the following
form :—

Form of
testi-
monial. One, addressed,
To the Most Reverend —, Lord Archbishop of
Canterbury, Primate of all England and Metro-
politan.

The other,
To the Right Reverend —, Lord Bishop of —.

We, whose names are hereunder written, do hereby testify and make known that A. B., clerk, who is desirous to obtain a licence or dispensation to enable him to hold together the — of —, in the county of — and diocese of —, and the — of —, in the same county and diocese, [*if that be the fact, if not state the fact*] has been personally known to us for the space of three years last past ; that we have had opportunities of observing his conduct ; that during the whole of that time we verily believe that he lived piously, soberly,

In witness whereof we have hereunto subscribed
our names, this — day of —, in the year of
our Lord 18—.

E. F., vicar of —.

G. H., rector of —.

4. A STATEMENT in writing, under the hand of the applicant for the dispensation, of the yearly income of each of the two benefices, and of the amount of the population of each, and of the distance between them, is to be made to the bishop of the diocese, if both benefices are in the same diocese, and to the bishop of each diocese if the benefices happen to be in different dioceses. The bishop to whom the statement is addressed is authorized to require it to be verified, and he is within one month after the receipt of it to transmit a certificate of value, population, and distance to the Archbishop of Canterbury, with a copy of the statement.

FORM of statement by the Incumbent to the bishop, of the yearly value, population, and distance, in respect of the two benefices proposed to be held together by dispensation.

To the Right Reverend —, Lord Bishop of —.

Form of
statement
of yearly
value,
popula-
tion, and
distance.

I, A. B., clerk [*here insert description*], being desirous to obtain a licence or dispensation from his Grace the Lord Archbishop of Canterbury to enable me to hold together the [rectory, vicarage, or other benefice, as the case may be] of C., in the county of —, and diocese of —, and the [rectory, vicarage, or other benefice, as the case may be] of D., in the county of —, and diocese of —, do, in pursuance of the act 1 & 2 Vict. c. 106, make to your lordship the following statement in writing under my hand, wherein I have set forth, according to the best of my belief, the yearly income arising from each of the said benefices separately, on an average of the three years ending on the 29th day of September next before the date of this statement, and the sources from which such income is derived, and also the yearly amount, on an average of the same period of three years, of all taxes, rates, tenths, dues, and other *permanent* charges and outgoings, to which the same benefices are respectively subject, and also the amount of the population of each of the said benefices, computed according to the latest returns made under the authority of Parliament, and also the distance between the church of one to the church of the other of the said two benefices, computed according to the directions of the said act as follows, to wit:—

FIRSTLY. That the average yearly income arising from the said — of C—, for the three years ending on the 29th day of September now last past,

derived from the several sources hereinafter specified, is as follows :—

[Here specify accurately and clearly, in separate items, the several sources of income of the — of C—, and the average yearly amount of each item, and add such average yearly amounts together.]

That the average yearly amount of taxes, rates, tenths, dues, and other *permanent* charges and outgoings

[The incumbent must be careful not to include any stipend or stipends to any stipendiary curate or curates, nor such taxes, or rates, in respect of the house of residence, or of the glebe land belonging thereto as are usually paid by tenants or occupiers, nor moneys expended in the repair or improvement of the house of residence, and buildings and fences belonging thereto.]

for the same three years, to which the said — of C— was subject, according to the specification thereof hereinafter contained, is as follows :—

[Here specify accurately and clearly in separate items, as to the — of C—, the several taxes, rates, tenths, dues, and other permanent charges and outgoings, (not including stipend, &c. as before directed) and the average yearly amount of each item, and add such average yearly amounts together, and deduct the total average amount from the total sum of the average yearly income.]

That the amount of the population of the said — of C—, according to the latest returns of population made under the authority of Parliament is —.

SECONDLY. That the average yearly income arising from the said — of D— [*the benefice which A. B.*

proposes to take and hold with the — of C.] for the three years ending on the 29th day of September now last past, derived from the several sources hereinafter specified, is as follows :—

[Here specify accurately and clearly, in separate items, the several sources of income of the — of D—, and the average yearly amount of each item, and add such average yearly amounts together.]

That the average yearly amount of taxes, rates, tenths, dues, and other *permanent* charges and outgoings [*not including any stipend or stipends, &c., as before directed*] for the same three years, to which the said — of D— was subject, according to the specification thereof hereinafter contained, is as follows :—

[Here specify accurately and clearly, in separate items, as to the — of D—, the several taxes, rates, tenths, dues, and other permanent charges and outgoings [not including stipend, &c., as before directed], and the average yearly amount of each item, and add such average yearly amounts together, and deduct the total average amount from the total sum of the average yearly income.]

That the amount of the population of the said — of D—, according to the latest returns of population made under the authority of Parliament, is —.

THIRDLY. That the distance between the church of the said — of C— and the church of the said — of D—, by the nearest road, does not exceed three statute miles, such distance being — or thereabouts.

[Should the distance exceed by nearly three statute miles, specify the excess in yards; or should there

be any thing special in any case with respect to computing the distance, for instance, if there be two churches, or no church on one of the benefices, the directions contained in the 129th section of the before-mentioned act must be observed in that respect.]

Witness my hand, this — day of —, one thousand eight hundred and .

[Signature of A. B.]

Signed in the }
presence of }

It will be necessary for the clergyman applying for a dispensation to be extremely particular in ascertaining and stating the average income and outgoings, and amount of the population of the two benefices, and the distance of the two churches from each other ; and he is recommended to peruse carefully the several sections of the acts relating thereto respectively, as it is essential that the plain and obvious directions there given should be, in every particular, observed with the greatest accuracy,—and he may also peruse the preceding subject treated of in this work, as to pluralities, especially with respect to a declaration to be made to the bishop by a pluralist incumbent in certain cases, and resignation in others, before admission to another benefice or cathedral preferment.

Accuracy in statements essential.
1 & 2 Vict. c. 106,
13 & 14 Vict. c. 98.

The papers to be transmitted to the Archbishop of Canterbury to obtain a dispensation are,—

Certain papers to be sent to the Archbishop of Canterbury. Letters of orders.

1. LETTERS of Orders, Deacon and Priest.

2. A TESTIMONIAL, signed and countersigned in the form before set forth.

Testimonial.

3. A CERTIFICATE under the hand of the bishop of the diocese in which the two benefices are situate [*if both are in the same diocese*], in the following form :—

To the Most Reverend —, Lord Archbishop of Canterbury.

Bishop's
certificate
of value,
popula-
tion,
and dis-
tance,
when bene-
fices are in
the same
diocese.

I, —, Lord Bishop of —, do hereby certify your Grace, that I consider that the amount of the yearly value and population of each of the two following benefices, within my diocese, namely, the — of C., in the county of —, and the — of D., in the county of —, [*or the same county, if that be the fact*] and the distance of the said two benefices from each other, ought to be taken as follows, with respect to a licence or dispensation which the reverend A. B. is desirous to obtain from your Grace, to enable him to hold them together, that is to say, the amount of the yearly value of the said — of C. at —, and of the population thereof at —, and the amount of the annual value of the said — of D. at —, and the population thereof at —, and the distance of the churches of the said two benefices from each other at —. And I further certify your Grace, that a true copy of the statement respecting such annual value, population, and distance, made to me by the said A. B., is hereunto annexed.

Witness my hand this — day of —, in the year of our Lord one thousand eight hundred and —.

[Signature.]

[Annex a copy of the statement before referred to.]

When the benefices proposed to be held by dispensation are in different dioceses, a separate certificate by each bishop is to be made to the Archbishop of Canterbury of the amount of the yearly value and population of the benefice in his own diocese, and the distance from the church of one to the church of the other of the two benefices.

To the Most Reverend —, Lord Archbishop of
Canterbury.

I, —, Lord Bishop of —, do hereby certify your Grace, that with respect to a licence or dispensation which the Reverend A. B. is desirous to obtain from your Grace to enable him to hold the two after-named benefices together, I consider that the amount of the yearly value of the — of C., in the county of —, and in my diocese of —, ought to be taken at —, and the population thereof at —, and the distance of the church of the said benefice from the church of the benefice of D., in the county of —, and diocese of —, at —. And I do further certify your Grace, that the annexed paper contains a true copy of the statement made to me by the said A. B. respecting the said yearly value, population, and distance.

Bishop's
certificate
when the
benefices
are in dif-
ferent dio-
ceses.

Witness my hand this — day of —, in the
year of our Lord one thousand eight hundred
and —.

[Signature.]

[Annex a copy of the statement before referred to.]

INSTRUCTIONS how to proceed to effect the Union of Benefices under the provisions of the act 1 & 2 Vict. c. 106.

Sections of act relating to unions.

THE Sections of the act 1 & 2 Vict. c. 106, which relate to the union of benefices, are the 16th to the 20th, both inclusive; and the 23rd section of the act 4 & 5 Vict. c. 39, and the 8th section of the act 13 & 14 Vict. c. 98.

These several acts will be found in the Appendix.

Papers to be sent to the archbishop as to unions. Patron's consent.

The papers to be sent to the archbishop of the province are :—

1. THE consent in writing under the hand of the patron* of each of the benefices to be united, if they be not both in the patronage of the same person.

If more than two benefices are proposed to be united the form is to be altered accordingly.

To the Most Reverend —, Lord Archbishop of Canterbury or York [*as the case may be*].

Form of patron's consent if benefices are not in the patronage of the same person.

I, —, of —, in the county of —, esquire [*or other proper designation*], being the patron or person entitled to collate, present, or nominate [*as the case may be*] to the — of C., in the county of — and diocese of —, in your Grace's province, if the same were now vacant [*or, the same being now vacant, as the case may be*] do by this writing under my hand, signify

* As to patrons—see sections 125 to 128, act 1 & 2 Vict. c. 106, both inclusive.

to your Grace my consent to the union of the said — of C., with the — of D., in the county of — and diocese of —, [*or, in the same county and diocese, if such be the fact,*] into one benefice with cure of souls, for ecclesiastical purposes only: and that the course and succession in which the respective patrons for the time being shall collate, present, or nominate [*as the case may be*] to the said benefices, after the same shall be united into one benefice from time to time, as the same shall become vacant, shall be as follows; that is to say—*here state very precisely and clearly the order and turns of patronage.*]

Witness my hand this — day of —, in the year of our Lord one thousand eight hundred and —.

[*Signature.*]

Signed in the }
presence of }

THE consent in writing of the patron⁷, if the benefices to be united are in the patronage of the same person.

If more than two benefices are to be united, this form to be altered accordingly.

To the Most Reverend —, Lord Archbishop of —.

I, —, of —, in the county of —, esquire [*or other proper designation*], being the patron or person entitled to collate, present, or nominate to the — of C., in the county of — and diocese of —, and also to the — of D., in the county of — and diocese of —, [*or, in the same county and diocese, if such be the fact,*] if the same respectively were now vacant, do, by this writing under my hand, signify to your Grace my consent to the union of the said two benefices

Form of
consent if
the same
person be
patron
of both
benefices.

⁷ As to patrons—see sections 125 to 128, both inclusive.

into one benefice with cure of souls, for ecclesiastical purposes only, by virtue of the act of parliament 1 & 2 Victoria, c. 106.

Witness my hand this — day of —, in the year of our Lord one thousand eight hundred and —.

[Signature.]

Signed in the }
presence of }

Bishop's
representation to
the arch-
bishop.

2. REPRESENTATION to the archbishop of the province by the bishop as to benefices in his diocese which are proposed to be united.

If the benefices are in different dioceses, the bishop of each diocese is to make a representation in the same form, *mutatis mutandis*.

To the Most Reverend —, Lord Archbishop of —.

Form
of the bi-
shop's re-
presenta-
tion.

I, —, Lord Bishop of —, do hereby represent to your Grace, that the — of C., in the county of —, and my diocese of —, and the — of D., in the county of —, and my said diocese, [*or, in the same county and diocese, if such be the fact*] being contiguous to each other, and of which the aggregate population does not exceed 1500 persons, may, with advantage to the interests of religion, be united into one benefice.

Given under my hand this — day of —, in the year of our Lord one thousand eight hundred and —.

[Signature.]

Signed in the }
presence of }

Inquiry by
the arch-
bishop.

On receipt of the representation by the archbishop, inquiry will be made by him into the circumstances of the case; and if it shall appear to him that the union may be usefully made, he will issue a form of notice for each parish, to be affixed on or near the principal outer

Form of
notice of
intended

door of the church, or in some public and conspicuous place in each of the benefices proposed to be united. union of benefices.

The notice should be affixed on the proper door [*or place*] by a careful person,—who should write at the foot of the notice, “This notice was here affixed on the — day of —, 18—;” and he should keep an exact copy of the notice, with a memorandum of the time of affixing it; and transmit the original notice at the end of six weeks from the time of affixing it to the archbishop, with a certificate thereon, signed by him, that it had remained affixed for the said period of six weeks. Directions as to affixing the notice.

In case of the removal of a notice before the expiration of the six weeks, an exact copy should be sent to the archbishop, with a certificate stating the day on which, and the place where the notice was affixed, and the fact of its removal. Removal of notice before time expired.

On receipt of the notices, the archbishop will make the requisite certificate to the Queen in council. Archbishop's certificate.

As to the order to be made in pursuance of such certificate, and the registration of the order, it appears only necessary to refer to the words of the 16th section. Order in council.

The 20th section prohibits a union of benefices in any other manner than under the provisions of the act. Prohibition of other unions.

And by the 27th section the Queen in council may, within five years after a union shall have taken effect, make a supplemental order for removing doubts, and settling disputes in consequence of changes occasioned by such union. Supplemental order for removing doubts.

The 23rd section of the act 4 & 5 Vict. c. 39, authorizes the exchange of advowsons and rights of patronage with a view to the union of benefices under the act 1 & 2 Vict. c. 106. Exchange of patronage for effecting unions.

These exchanges are effected by means of the order in council for carrying the union into effect; the first process being a certificate from the Ecclesiastical Commissioners to the archbishop of the province that the proposed exchange is expedient. Certificate to archbishop by ecclesiastical commissioners.

Order in
council
thereon.

This certificate, together with an abstract of title to any advowson or right of patronage therein mentioned, except it belong to an ecclesiastical corporation, and the opinion of counsel on such title, is afterwards transmitted by the archbishop, with his own certificate, to the Queen in council. And the exchange is perfected by the order in council.

The restriction as to aggregate yearly value of benefices to be united to the sum of 500*l.* removed.

The 8th section of the act 13 & 14 Vict. c. 98, authorizes the union of two or more benefices, or one or more benefice or benefices, and one or more spiritual sinecure rectory or rectories, vicarage or vicarages, in the same parish or contiguous to each other, and of which the aggregate population shall not exceed 1500 persons—notwithstanding the aggregate yearly value shall exceed 500*l.*—in like manner and with the like preliminaries and consequences as if the words “and the aggregate yearly value shall not exceed 500*l.*” had not been inserted in the provision therein referred to, viz. that contained in the 16th section of 1 & 2 Vict. c. 106;—and it is provided that it shall be lawful for the bishop to direct that there shall be two full services in each church of such consolidated livings.

Bishop may direct two full services in each church.

Unions by virtue of the act 18 & 19 Vict. c. 127.

By the act 18 & 19 Vict. c. 127, further provision is made for the union of contiguous benefices—and unions may be made under that act without regard to population or value: the process being for the inhabitants in vestry to represent the proposed union to the bishop; the bishop to submit a statement to the Ecclesiastical Commissioners; and the Ecclesiastical Commissioners to propose a scheme to the Queen in council. This act is set forth in the Appendix.

The act requires the consent of patrons, and provides for the due publication of the scheme before it is certified to the Queen in council.

INSTRUCTIONS how to proceed to effect the Disunion of Benefices under the Provisions of the act 1 & 2 Vict. c. 106.

THE sections of the act 1 & 2 Vict. c. 106, which relate to the disunion of benefices, are the 21st to the 25th, both inclusive, for which see Appendix. Sections of act relating to disunions.

The papers to be sent to the archbishop of the province in order to carry into effect any such disunion are,— Papers to be sent to the archbishop.

1. THE consent in writing, if the benefices have been united more than sixty years before the 14th day of August, 1838, under the hands of the patron^s or patrons of the united benefice: if the union shall have been made within the period of sixty years before that date, the patron's consent is not required. Patron's consent to disunion.

If the union consisted of more than two benefices, the form is to be altered accordingly.

To the Most Reverend —, Lord Archbishop of the province of —.

I, A. B., of —, in the county of —, esquire [*or other proper designation*], being the patron or person entitled to collate, present, or nominate [*as the case may be*] to the united — of —, in the county of — and diocese of —, in your Grace's province, if the same were now vacant, do by this writing, under my hand, signify to your Grace my consent that the — of — shall be separated from the — of —, and that the union of the said two

* As to patrons for the purposes of the act—see sections 125 to 128, both inclusive.

benefices shall be dissolved. Witness my hand this
— day of —, in the year of our Lord one thou-
sand eight hundred and —.

[Signature.]

Signed in the }
presence of }

When pa- In case the patron's consent shall not be necessary
tron's con- by reason of the union having taken place within
sent not necessary, sixty years of the 14th August, 1838, a certificate
registrars' registrar's
certificate to be pro- should be procured from the registrar of the diocese
cured. of the actual time when the union took place.

Represent- 2. REPRESENTATION to the archbishop of the pro-
ation by vince by the bishop as to the disunion of benefices in
the bishop his diocese, which may have been united.
or bishops.

If the benefices were, before the union, in different
dioceses, the bishop of each diocese is to make a
representation in the same form *mutatis mutandis*.

To the Most Reverend —, Lord Archbishop
of the province of —.

I, Lord Bishop of —, do hereby represent to
your Grace, that it appears to me that the disunion
of the united — of —, in the county of — and
my diocese of —, by the separation of the said —
of — from the said — of —, may be made with
advantage to the interests of religion. Witness my
hand, this — day of —, in the year of our Lord
one thousand eight hundred and —.

[Signature.]

Signed in the }
presence of }

Inquiry by On receipt of this representation the archbishop
the arch- will inquire into the circumstances of the case, and
bishop. if it shall appear to him that the union may be use-

fully dissolved, he will issue a form of notice for each parish, to be affixed on or near the principal outer door of the church, or in some public and conspicuous place in each of the benefices forming part of the united benefice.

The notice should be affixed on the proper door [or place] by a careful person, who should write at the foot of the notice, "This notice was here affixed on the — day of —, 18—;" and he should keep an exact copy of the notice, with a memorandum of the time of affixing it, and transmit the original at the end of six weeks from the time of affixing it to the archbishop, with a certificate thereon, signed by him, that the same had remained so affixed for the said period of six weeks.

In case of the removal of a notice before the expiration of the six weeks, an exact copy should be sent to the archbishop, with a certificate stating the day on which and the place where the notice was affixed, and the fact of its removal.

On receipt of the notices, the archbishop will make the requisite certificate to the Queen in council.

As to the order to be made in pursuance of such certificate, and the registration of the order, it appears only necessary to refer to the words of the 21st section.

The separation takes effect upon the registration of the order in council, if the united benefice be then vacant, otherwise on the first avoidance.

By the 22nd section of the said act, the incumbent, after the issuing of the order in council, may resign the benefice proposed to be disunited.

Under the 23rd section it is competent to the Queen in council, on the recommendation of the archbishop of the province, and with the consent of the patron, to apportion the lands and other endowments, as well as the outgoings of the united benefice, between the disunited benefices in any manner that may be thought fit.

Sale of a house belonging to a united benefice.

The 25th section relates to the sale of a house of residence belonging to a united benefice, and unfit to be kept as a house for either of the disunited benefices, and it authorizes the application of the money arising from such sale towards the providing a house and appurtenances for each disunited parish.

Supplemental order in council to remove doubts.

By the 27th section the Queen in council may, within five years after a disunion shall have taken effect, make a supplemental order for removing doubts and settling disputes in consequence of changes occasioned by such disunion.

*AS to the ALTERATION of the contents of Parishes
for ecclesiastical purposes under the act 1 & 2 Vict.
c. 106¹.*

By the 26th section of the above act, a tithing, hamlet, chapelry, or other place or district may, by means of an order in council, be separated from the parish or mother church to which it may belong, and either be constituted a separate benefice, or be united to another parish, or an adjoining tithing, hamlet, chapelry, place, or district, parochial or extra-parochial, so as to form a separate parish or benefice. And an extra-parochial place may be annexed to a contiguous parish, or be constituted a separate parish for ecclesiastical purposes.

This section and the 27th (under which a supplemental order in council may be made for removing doubts, &c. occasioned by the original order), as well as the 6th, 7th, and 8th sections of the act 2 & 3 Vict. c. 49, by which the provisions as to separations, &c., are extended, will be found in the Appendix.

The following sketch of a representation and scheme for the separation of a township, to be constituted a separate benefice, will, it is hoped, be useful as a guide for the exercise of any other of the provisions of the 26th section.

SKETCH of a representation and scheme (with patron's and incumbent's consent annexed) to be submitted by a bishop to the archbishop of the province, for separating a township from a parish, and constituting it a separate parish and a perpetual curacy, to be varied according to circumstances.

¹ The Ecclesiastical Commissioners can assign districts, and assist in dividing parishes. and in making regulations in respect thereto.

Represent-
ation.

To the Most Reverend —, Lord Archbishop of
the province of —.

I, the Right Reverend —, Lord Bishop of —, do hereby represent to your Grace that there is in the county of — and my diocese of —, the vicarage of Dale, the parish whereof comprises, amongst other places, a township known by the name of Kenton; the boundaries whereof are well known and defined.

That the said township contains a church [*or chapel*] long since erected, and which is now a chapel of ease to the parish church of Dale aforesaid, and which church [*or chapel*] is distant from the said parish church two miles or thereabouts.

That the population of the said township of Kenton amounts, according to the census of 1841, to 1600 persons, for whom the said church [*or chapel*] affords sufficient accommodation.

That the said township appears to have been immemorially treated as a separate parish for all civil purposes, and also that baptisms, churchings, marriages, and burials, have heretofore been and are now performed in the said church [*or chapel*].

That the inhabitants of the said township have, from time immemorial, resorted to the said church of Kenton, repaired it by rates levied in the said township, and elected from among themselves churchwardens, overseers, and other parish officers for the said township.

That the said township is in no way connected with the parish of Dale, in respect to rates of any kind, nor are the inhabitants thereof entitled to any accommodation in the said parish church, nor are the inhabitants of Dale entitled to accommodation in Kenton church [*or chapel*].

That the population of the said parish of Dale, exclusive of the said township of Kenton, amounts, according to the census of 1841, to 4060.

That the annual value of the said vicarage of Dale is 850*l.*, arising partly from rent-charges given in commutation of tithes, and partly from glebe, and partly from surplice fees and Easter offerings. Represent-
ation (con-
tinued).

That it appears to me that the said township of Kenton may, under the provisions of the acts of parliament of the first and second years of her present Majesty, c. 106, and the second and third years of her said Majesty, c. 49, be advantageously separated from the said parish of Dale, and be constituted a separate parish and perpetual curacy.

That, pursuant to the direction contained in the 26th sect. of the said first-mentioned act of parliament, I, the said Lord Bishop, have drawn up a scheme in writing, appended to this representation, describing the mode in which it appears to me that the alteration above proposed may be best effected, and how the changes consequent on such alteration in respect to ecclesiastical jurisdiction, glebe lands, tithes, rent-charges, and other ecclesiastical dues, rates, and payments, and in respect to patronage and rights to pews, may be made with justice to all parties interested; and I do submit the same to your Grace, together with the consent in writing of —, the patron of the said vicarage of Dale, to the intent that your Grace may, if on full consideration and inquiry you shall be satisfied with the said scheme, certify the same, and such consent, to her Majesty in council.

Given under my hand this — day of —, 18—.

[Signature.]

Scheme referred to in the foregoing Representation [to be varied according to the facts and circumstances].

It is proposed to separate the said township of Scheme Kenton from the parish of Dale, to which it belongs, and to constitute it a separate parish for ecclesiastical

Scheme
(con-
tinued)

purposes², and a perpetual curacy, of which the church [or chapel] belonging to the said township shall be the parish church.

That such perpetual curacy shall be subject to the same ecclesiastical jurisdiction as the said vicarage of Dale.

That there shall be assigned and attached to the separate parish and perpetual curacy of Kenton, so to be constituted, the yearly sum of 300*l.*, part of the rent-charge of 400*l.* per annum given in lieu of the tithes of the lands within the said township of Kenton, under the provisions of the act for the commutation of tithes in England and Wales; such yearly sum of 300*l.* being composed of the several sums assessed upon the farms and lands comprised in the schedule under written, viz.:

Schedule of part of Kenton Rent-charge.

No. upon the Plan.	Land Owners.	Occupiers.	Quantities.			Vicarial Rent-charge.		
			A.	E.	P.	£	s.	d.
30 to 32 (both inclusive)	Joseph Cranston	Himself	1	2	16	0	3	0
33 to 35 ditto	Margaret Yates.	Herself	1	0	3	0	2	0
40 and 41.	Thomas Metcalf	Himself	0	2	19	0	1	0

&c. &c. &c.

That baptisms, churchings, marriages, and burials shall, as heretofore, be performed in the church of the benefice so to be constituted; and that the fees for all such offices performed within the limits of the said benefice, and all ecclesiastical dues, offerings, and other emoluments arising from or in respect of the said benefice, and usually payable to the incumbent of a benefice, shall belong to the incumbent of the said intended perpetual curacy or benefice of Kenton.

² As to district parish with exclusive cure of souls, to be formed under the church building acts, *vide* act 2 & 3 Vict. c. 49, sect. 8.

That the incumbent of the said intended perpetual curacy shall have³ cure of souls within the limits thereof. Scheme (continued).

That the right of nominating a minister to the church of such perpetual curacy and benefice shall be for ever vested and be in —, Esq. (the patron of the said vicarage of Dale), and his heirs, executors, administrators, or assigns, for ever.

That the inhabitants of the said township shall be exonerated, as heretofore, from all liability to repair the parish church of Dale, or any other church or chapel now or hereafter to be erected in the said parish, but shall be exclusively liable to the repairs of the said church at Kenton.

That the first fruits, 12*l.*, and tenths, 1*l.* 4*s.*, now charged upon the vicarage of Dale, shall be apportioned as follows:—the vicarage of Dale is to be subject to 8*l.* first fruits, and 16*s.* tenths; and the perpetual curacy of Kenton to 4*l.* first fruits, and 8*s.* tenths.

To the Most Reverend —, Lord Archbishop of —.

I, —, of —, Esquire, the patron or the person entitled to present to the vicarage of Dale, in the county of — and diocese of —, in case the same were now vacant, and I, the Reverend A. B., clerk, vicar of the said vicarage, do hereby respectively signify to your Grace our consent to the scheme above proposed for separating the township of Kenton from its parish of Dale, and for constituting the said township a separate benefice and a perpetual curacy. Consent of patron and incumbent.

(Signed) { — Patron.
 { — Incumbent.

This representation and scheme, and patron's consent, are to be transmitted to the archbishop of the province, who if, upon consideration and inquiry, he Scheme to be certified by archbishop.

³ See note, preceding page.

shall be satisfied with the scheme, will certify the same and the patron's consent to the Queen in council.

Order in council.

Upon the issuing of an order in council, and the registration of such order in the registry of the diocese, the separation becomes complete.

In default of incumbent's consent, separation postponed

In case the incumbent does not give his written consent to the separation, it will not take effect during his incumbency.

till next vacancy of benefice.

Separation, &c., may be made during vacancy.

By the act 2 & 3 Vict. c. 49, sect. 6, the operation of the act 1 & 2 Vict. c. 106, as to any scheme or modification thereof, and the order of her Majesty in council is extended to benefices during the vacancy thereof.

Separate parish to be a perpetual curacy with exclusive cure of souls within limits of district parish.

By the same act, sect. 8, when a separate parish is constituted by any order of her Majesty in council, by act 1 & 2 Vict. c. 106., it is to be a perpetual curacy, and the incumbent is to have exclusive cure of souls *within the limits of the district parish* formed, under the Church Building Acts, for the church of such perpetual curacy.

*AS to PENALTIES for Non-residence.**

By the act 1 & 2 Vict. c. 106, sect. 32, it is enacted Penalties for non-residence, on incumbent not having a licence or exemption, unless he be resident on another benefice.
as follows :—

“And be it enacted, that every spiritual person holding any benefice shall keep residence on his benefice, and in the house of residence (if any) belonging thereto; and if any such person shall, without any such licence or exemption as is in this act allowed for that purpose, or *unless he shall be resident at some other benefice of which he may be possessed*, absent himself from such benefice, or from such house of residence (if any) for any period exceeding the space of three months together, or to be accounted at several times in any one year, he shall, when such absence shall exceed three months and not exceed six months, forfeit one third part of the annual value of the benefice from which he shall so absent himself; and when such absence shall exceed six months and not exceed eight months, one half part of such annual value; and when such absence shall exceed eight months, two third parts of such annual value; and when such absence shall have been for the whole of the year, three fourth parts of such annual value.”

By the 41st sect. it is enacted as follows :—

“Provided also, and be it enacted, that every spiritual person having any house of residence upon his benefice, who shall not reside therein, shall, during such period or periods of non-residence, whether the same shall be for the whole or part of any year, keep such house of residence in good and sufficient repair; and in every such case it shall be lawful for the bishop to cause If house of residence not kept in repair, the incumbent to be liable to the penalties for non-residence.

* An incumbent holding two benefices, and being legally resident on one, is not, during the time of such residence, liable to penalties for non-residence on the other.

a survey of such house of residence to be made by some competent person, the costs of which, in case the house shall be found to be out of repair, shall be borne by such spiritual person; and if the surveyor shall report that such house of residence is out of repair, it shall be lawful for the bishop to issue his monition to the incumbent to put the same in repair, according to such survey and report, a copy of which shall be annexed to the monition; and every such non-resident spiritual person who shall not keep such house of residence in repair, and who shall not, upon such monition, and within one month after service of such monition, show cause to the contrary to the satisfaction of the bishop, or put such house in repair within the space of ten months, to the satisfaction of such bishop, shall be liable to all the penalties for non-residence imposed by this act during the period of such house of residence remaining out of repair, and until the same shall have been put in repair."

By the 118th section it is enacted as follows:—

Penalties
not re-
coverable
for more
than one
year.

"And be it enacted, that no penalty shall be recovered against any spiritual person, under the provisions of this act, other or further than those which such spiritual person may have incurred subsequent to the first day of January in the year immediately preceding the year in which such proceedings shall be commenced."

By the 120th section it is enacted as follows:—

Com-
mence-
ment and
conclusion
of the year.

"And be it enacted, that for all the purposes of this act, except as herein otherwise provided, the year shall be deemed to commence on the first day of January, and be reckoned therefrom to the thirty-first day of December, both inclusive."

By the 121st section it is enacted as follows:—

How
months
to be cal-
culated.

"And be it enacted, that for all the purposes of this act the months therein named shall be taken to be calendar months, except in any case in which any month or months are to be made up of different periods less

than a month, and in every such case thirty days shall be deemed a month."

Penalties for non-residence are to be recovered as pointed out in the 114th section, and when recovered are to be applied towards the augmentation or improvement of the benefice or of the house of residence thereof, or of any of the buildings or appurtenances thereof. Recovery and application of penalties.

The whole or part of any penalty may (by the 57th section) be remitted by the bishop; and where he shall remit a penalty exceeding one-third part of the yearly value of the benefice, for any non-residence exceeding six months in the year, the case is to be referred to the archbishop of the province, who is authorized to allow or disallow the same, wholly or in part; and where the archbishop shall so remit a penalty of the same amount in his own diocese, for any such non-residence, the case is to be referred to the Queen in council, to be allowed or disallowed. Remission of penalties.

In case a tenant of the house of residence keeps adverse possession, the incumbent of the benefice (by the 60th section) is not to be liable to any penalty for not residing therein during such time as such tenant shall continue to occupy such house of residence, or other buildings or appurtenances necessary to the occupation of the same. Incumbent not liable whilst tenant continues to occupy house, &c.

By the 58th section it is enacted, "that if the benefice of any spiritual person shall continue, for the space of one whole year, under sequestration issued under the provisions of this act for disobedience to the bishop's monition, or order requiring such spiritual person to reside on his benefice, or if such spiritual person shall, under the provisions of this act, incur two such sequestrations in the space of two years, and shall not be relieved, with respect to either of such sequestrations, upon appeal, such benefice shall thereupon become void." Benefice continuing sequestrated one year, or being twice so sequestrated within two years, to become void.

*AS to EXEMPTIONS and partial Exemptions from the Penalties for Non-residence.**

As to exemptions before 14th August, 1838.

A LIST of spiritual persons who are wholly or partially exempt from the penalties of non-residence on benefices, *of which they were in possession before the 14th day of August, 1838, by virtue of offices then held by them*; such exemptions being continued to them by the 40th section, 1 & 2 Vict. c. 106, which section is here set forth:—

Existing rights as to exemptions and licences preserved.

“Provided always, that every spiritual person being in possession of any benefice at the time of the passing of this act, and entitled by the law previously in force to exemption from residence, or to apply for a licence for non-residence, shall, as to every such benefice, but not as to any after-taken benefice, be entitled to the same exemption from residence, and to the same capacity of applying for and obtaining a licence for non-residence, and to the same right of appeal in case of refusal or revocation of a licence, to which he was entitled before the time of the passing of this act.”

THE LIST BEFORE REFERRED TO.

[See (repealed) act 57 George III. c. 99, sect. 10.]

Chancellor, Vice-chancellor, or Commissary	-	} of either of the Universities of Oxford or Cambridge.
Warden, Dean, Provost, President, Rector, Principal, Master or other head ruler	-	
Professors, or Public Readers	-	} in either of the said Universities { actually resident within the precincts of the University, and reading lectures therein.

* By the 50th sect. of 1 & 2 Vict. c. 106, it is required that a statement in writing of the grounds of exemption shall be transmitted by incumbent to churchwardens, &c., within one month after his taking advantage of such exemption, to be deposited in parish chest, and produced and read at next visitation.

LIST (continued) of persons who are wholly or partially exempt from the Penalties of Non-residence on Benefices of which they were in possession before the 14th August, 1838, by virtue of offices then held by them.

Scholars - - -	{	under the age of thirty years, abiding for study without fraud, at either of the said Universities.	
Every chaplain of	{	the Queen, the King, the children } of the the brethren } Queen the sisters } or King, an archbishop, a bishop, any temporal lord in parliament, any person or persons authorized by law to appoint any chaplain or chaplains,	{ so long as he shall actually attend in the discharge of his duty as such chaplain in the household to which he belongs. during so long as he shall abide and dwell and daily attend in the actual performance of his duty as such chaplain in the household to which he shall so belong.
Actually serving as chaplain - -	{	of the House of Commons,	
or as clerk or deputy clerk - -	{	of Her Majesty's closet,	
or as clerk or deputy clerk - -	{	of the closet of the Heir Apparent,	
or as a chaplain general of - -	{	Her Majesty's forces by sea or land,	
or as chaplain - -	{	of Her Majesty's dock-yards,	
			while such spiritual person shall be actually attending and performing the duties of such office respectively.
or as chaplain - -	{	in the house of any British ambassador residing abroad,	
or as chancellor, or vicar-general, or as commissary - -	{	- - - -	{ during the time of his performing the duties of such his office. whilst exercising the duties of their offices respectively.
or as an archdeacon - -	{	- - - -	{ whilst upon visitations, or otherwise engaged in the exercise of his functions. during the times for which he shall actually reside within the precincts of the cathedral or collegiate church to which he shall belong, or within the city or town in which the said cathedral or collegiate church is situate, or the suburbs thereof, and shall actually perform the duties of his office.
Minor canon, vicar choral, priest vicar, or any such other public officer - -	{	in any cathedral or collegiate church,	
Dean or subdean, or priest, or reader - -	{	in any of her Majesty's royal chapels at St. James's or Whitehall,	
or as reader - -	{	in her Majesty's private chapels at Windsor, or elsewhere,	{ whilst residing and actually performing the duty of any such office respectively.

LIST (continued) of persons who are wholly or partially exempt from the penalties of non-residence on benefices of which they were in possession before the 14th August, 1838, by virtue of offices then held by them.

Actually serving as preacher in any of the Inns of Court, or at the Rolls.

or as bursar, treasurer, dean, vice president, subdean, or public tutor, or chaplain, or other such public officer	} in any college or hall in either of the Univer- sities of Oxford or Cambridge,	} during the period for which they may respectively be required, by reason of any such office, to reside and perform the duties, and actually shall re- side and perform the same.
or as public librarian, or public registrar, or proctor, or public orator, or other such public officer		
or as fellow of any col- lege	} in either of the Univer- sities,	} during the time for which he may be required to reside by any charter or statute, and shall actually reside therein.
or as warden, provost, or fellow		
or the Master	of Eton or Winchester College,	} during the time for which he may be required so to reside, and shall actually reside therein re- spectively, or within the city or town, or suburbs of the city or town, within or near to which the said colleges are re- spectively situate.
or as master or usher	of the Charter House,	
or as master or usher	in the said college of Eton or Winchester.	
or as master or usher	of Westminster school.	
or as principal or pro- fessor	of the East India college; [this college has ceased to exist.]	

Further
exemp-
tions.

The spiritual persons who were specially exempt from residence, under the provisions of any other act or acts of Parliament, before the act of 1 & 2 Vict. c. 106, and who were in possession of benefices before the passing of that act, are still entitled to the exemptions given by such act or acts, with respect to such benefices.

Further
exemp-
tions.

By the said 40th sect. of the act 1 & 2 Vict. c. 106, the exemptions given by the 11th and 13th sections of the act 57 Geo. III. c. 99 (here set forth) are continued to incumbents, in respect of benefices of which they were in possession before the 14th day of August, 1838.

Dignita-
ries re-
siding at.

Sect. 11. "And be it further enacted, that it shall be lawful for any spiritual person being dean,

during such time as he shall reside upon his deanery, or being prebendary or canon, or holding any other dignity or dignities in any cathedral or collegiate church or churches, who shall reside any period not exceeding four months altogether within the year upon such dignity or dignities, to account such residence as if he had legally resided on some benefice: Provided always, that it shall be lawful for any spiritual person having or holding any prebend, canonry, or dignity in any cathedral or collegiate church, in which the year for the purposes of residence is accounted to commence at any other period than the first of *January*, and who may keep the periods of residence required for two successive years at such cathedral or collegiate church, in whole or in part, between the first of *January* and the thirty-first of *December* in any one year, to account such residence, although exceeding four months in the year, as reckoned from the first of *January* to the thirty-first of *December* as if he had legally resided on some benefice; any thing in this act contained to the contrary notwithstanding."

cathedral churches for certain periods exempted.

Provision for cases in which the year of residence at cathedrals commences at any other period than the 1st of *January*.

Sect. 13. (57 Geo. III. c. 99.) "Provided always, and be it further enacted, that no spiritual person appointed to any prebend, canonry, or dignity in any cathedral or collegiate church before the passing of this act, shall be subject to any penalty or forfeiture for non-residence upon any benefice during the period of his actually residing upon such prebend, canonry, or dignity."

Proviso for prebendaries, &c. appointed before the act 57 Geo. III. c. 99.

Persons wholly exempt under the act 1 & 2 Vict. c. 106. A-list of spiritual persons wholly exempt from the penalties of non-residence by virtue of the 37th section of the act 1 & 2 Vict. c. 106, *provided they do not hold more than one benefice with cure of souls.*

Head ruler	-	{ of any college or hall within either of the Universities of Oxford or Cambridge.
Warden	-	{ of the University of Durham.
Head master	-	{ of Eaton, Winchester, or Westminster School.
Principal or any professor	-	{ of the East India College, having been appointed such principal or professor before the time of the passing of the act. [This College no longer exists.]

Persons having temporary exemptions under the act 1 & 2 Vict. c. 106. A list of spiritual persons having partial or temporary exemptions from the penalties of non-residence by virtue of the 38th and 39th sections of the said act.

The dean of any cathedral or collegiate church } during his residence on his deanery.

A professor or public reader in either of the said Universities } while actually resident within the precincts of the University, and reading lectures therein.

Provided that a certificate under the hand of the Vice-Chancellor or Warden of the University, stating the fact of such residence, and of the due performance of such duties, shall, in every case, be transmitted to the bishop of the diocese wherein the benefice held by such professor or public reader is situate, within six weeks after the 31st day of December in each year.

Chaplain	-	-	{ of the Queen's or King's Most Excellent Majesty, of the Queen Dowager, of the Queen's or King's children, brethren or sisters, of any archbishop or bishop, }	{ during so long as he shall actually attend in the discharge of his duty, as such chaplain, in the household to which he shall belong. whilst actually attending in the discharge of his duty as such chaplain. }
Chaplain	-	-	{ of the House of Commons }	
Clerk or deputy clerk	-	-	{ of the Queen's or King's closet, }	{ while actually performing the functions of his office. }
Chancellor, Vicar-general, or Commissary	-	-	{ of any diocese, }	{ while exercising the duties of his office. }

LIST (continued) of partial or temporary exemptions under the said act.

Archdeacon	-	-	{ while upon his visitation or otherwise engaged in the exercise of his archidiaconal functions.	
Dean, Subdean, Priest, or Reader	-	-	{ in any of the Queen's or King's royal Chapels at St. James's or Whitehall,	{ whilst actually performing the duties of his office.
Reader	-	-	{ in the Queen's or King's private chapels at Windsor or elsewhere	
Preacher	-	-	{ at any of the Inns of Court, or at the Rolls	
Provost of Eton College, Warden of Winchester College, Master of the Charter House, Principal of St. David's College, ,, of King's College, London,				{ during the time for which he may be required to reside, and shall actually reside, therein respectively.
Prebendary, canon, priest vicar, vicar choral, or minor canon		{ of any cathedral or collegiate church,		{ who shall reside and perform the duties of his office during the period required by the charter or statutes of such cathedral or collegiate church or college.
Fellow of Eton or Winchester College,				

Provided that no such prebendary, &c., shall be absent from any benefice on account of such residence and performance of duty for more than five months altogether in any one year, including the time of such residence on his prebend, canonry, vicarage, or fellowship. Provided also, that a spiritual person holding any such office in a cathedral or collegiate church or college, in which the year for the purposes of residence is accounted to commence at any other period than the first of January, and who may keep the periods of residence required for two successive years, in whole or in part, at such cathedral or collegiate church or college, between the 1st of January and the 31st of December in any one year, may account such residence, although exceeding five months in the year, as reckoned from the 1st of January to the 31st of December, as if he had resided on some benefice.

[See further as to residence of deans and canons, p. 99.]

As to a licence to render a house not belonging to a benefice the legal house of residence.

INSTRUCTIONS as to a Petition to the Bishop for a Licence, where there is no House, or no fit House of Residence, on a Benefice, to permit the incumbent to reside in some fit and convenient House; which, during the Existence of such Licence, will be the legal House of Residence, and an Incumbent residing therein will be legally resident.

Licence to reside out of the usual house, if unfit.

By the 33rd section of the act 1 & 2 Vict. c. 106, it is enacted, "*That it shall be lawful for any bishop, upon application in writing by any spiritual person holding any benefice within his diocese whereon there shall be no house, or no fit house of residence, by licence under his hand and seal, to be registered in the registry of the diocese, which the registrar is hereby required to do, to permit such person to reside in some fit and convenient house, although not belonging to such benefice, such house to be particularly described and specified in such licence, and for a certain time to be therein also specified, not exceeding the period^{*} by this act limited, and from time to time as such bishop may think fit to renew such licence, and every such house shall be a legal house of residence for such specified time to all intents and purposes: Provided always, that no such licence shall be granted to such spiritual person to reside in any house, unless it be within three miles of the church or chapel of such benefice; nor in case such church or chapel be in any city, or market, or borough town, unless such house be within two miles of such church or chapel.*"

^{*} By sect. 46, a licence for non-residence may be granted till the 31st December in the year next after the year in which it is granted.

FORM of Application by an Incumbent for a Licence,
under the foregoing section :—

To the Right Reverend —, Lord Bishop of —. Form of
petition
for a
licence
under the
33rd sect.
The humble petition of the Reverend A. B.,
Rector of —, in the county of —.

SHOWETH,

That your petitioner has no house of residence on his
said benefice [or, no house on his said benefice fit for
his residence, *as the case may be*].

That your petitioner resides in a fit and convenient
house belonging to —, situate at [*here give an exact
account of the situation, parish, &c., so as clearly to iden-
tify the house, in order that it may be properly described
in the bishop's licence*], which house is not distant⁷
more than [three miles, or two miles, *as the case may
be*] from the church of his said benefice, such distance
being exactly —.

Your petitioner humbly prays your lordship to
grant a licence to permit your petitioner to
reside in the said house, that it may, by virtue
of such licence, be his legal house of residence
to all intents and purposes.

Witness his hand,
this — day of [Signature and address.]
—, 18—.

⁷ If the distance should exceed that prescribed by the 33rd sect.
the incumbent may apply for a licence for non-residence, accord-
ing to such of the forms hereinafter set forth as may apply to his
case.

*INSTRUCTIONS as to a Petition to the Bishop
for a Licence for Non-residence^a.*

Grounds
for licences
for non-
residence
as to in-
cumbents
of bene-
fices before
14th Au-
gust, 1838.

A LICENCE may be granted, by virtue of the 40th section of the act 1 & 2 Vict. c. 106, to any incumbent of a benefice held by him before the 14th day of August, 1838, to be non-resident thereon, for any of the twenty-six reasons after mentioned, which are contained in the (*repealed*) act 57 Geo. III. c. 99, sect. 15.

The following is a copy of the 40th section of the first-mentioned act:—

Existing
rights as
to exemp-
tion, and
licences
preserved.

“Provided always, that every spiritual person being in possession of any benefice, at the time of the passing this act, and entitled by the law previously in force to exemption from residence, or to apply for a licence for non-residence, shall, as to every such benefice, but not as to any after-taken benefice, be entitled to the same exemption from residence, and to the same capacity of applying for and obtaining a licence for non-residence, and to the same right of appeal, in case of refusal or revocation of a licence to which he was entitled before the time of the passing of this act; and every bishop and other person empowered before the passing of this act to grant a licence to such spiritual person, shall have the like power after the passing thereof, any thing herein-before contained to the contrary notwithstanding.”

The following is a list of the twenty-six reasons before referred to, arranged so as to be inserted in a petition to the bishop for a licence for non-residence; viz.,

On account of

Grounds
for licences
where the
incumbent
was in pos-
session be-
fore 14th
August,
1838.

1. “The actual illness of your petitioner” [*or*, “petitioner’s wife”].
“His actual infirmity of body” [*or*, “the actual infirmity of body of his wife”].

^a By the 50th sect. the incumbent must within one month after the grant of a licence send a copy to the churchwardens; until this is done the licence will have no effect.

LIST (continued) of grounds for Licences for non-residence where the incumbent was in possession before 14th August, 1838.

1. (*continued.*) "The actual illness, or the actual infirmity of body of his son [*or, daughter*], making part of and residing with him as his family."—In either of the foregoing cases a medical certificate will be required.
2. "There being no house of residence."
3. "The house of residence being unfit for his residence, such unfitness not being occasioned by his negligence, default, or other misconduct, and your petitioner undertaking to keep such house of residence in repair to the satisfaction of your lordship."

When application is made for a licence for the 3rd reason, a certificate by two neighbouring incumbents, in the following form, must be annexed to the petition:—

To the Right Rev. —, Lord Bishop of —.

We, whose names are under-written, do hereby certify your lordship, that we have lately examined the — house of —, in the county of —, and we find it totally unfit for the residence of the incumbent in consequence of [*specify cause*], and that to the best of our belief such unfitness has not been occasioned by the Rev. —, the present incumbent; and further, that the said — house and offices belonging thereto are in good and sufficient repair and condition.

Witness our hands, the — day of —, 18—.

C. D., rector of —.

E. F., vicar of —.

4. "His occupying in the parish of his said benefice a mansion or messuage, and his keeping the house of residence, and other buildings belonging thereto, in good and sufficient repair and condition."

When application is made for a licence for the 4th reason, a certificate by two neighbouring incumbents, in the following form, must be annexed to the petition:—

To the Right Rev. —, Lord Bishop of —.

We, whose names are under-written, do hereby certify your lordship that we have lately examined the — house of —, in the county of —, and the buildings belonging thereto, and we found the same to be in good and sufficient repair and condition.

Witness our hands, the — day of —, 18—.

G. H., rector of —.

I. K., vicar of —.

LIST (continued) of grounds for licences for non-residence where the incumbent was in possession before 14th August, 1838.

5. "His said benefice being of small value, and his serving as licensed stipendiary curate at —, and having provided for the service of his said benefice to your lordship's satisfaction."
6. "His being the duly licensed master [*or*, duly licensed usher] of the endowed school of —, and actually employed in teaching therein."
7. "His being master or preacher of the hospital, or incorporated charitable foundation of —."

Note.—The application for a licence on the last-mentioned ground must state whether the petitioner constantly resides and performs the duties, or not; as a licence on this ground can only be granted "during the period for which he may be required to reside, by any charter or statute of any such hospital, or incorporated charitable foundation, or by any other lawful authority in the same, and shall actually reside and perform the duties therein."

8. "His being licensed by the bishop of —, and performing and executing the duties as endowed lecturer of — [*or*, as chaplain of the endowed chapelry of —, *or*, as preacher of the endowed preachiership of —]."
9. "His said benefice being of small value, and his serving as preacher in the proprietary chapel of —, in the city [*or*, town] of —, licensed thereto by the bishop of —."
10. "His being chaplain of her Majesty's garrison of —."
11. "———— of the Royal Military Asylum at Chelsea."
12. "———— of the Royal Military College at Sandhurst."
13. "His being teacher of the Royal Military Academy at Woolwich."
14. "His being chaplain at the Royal Hospital at Greenwich."
15. "———— at Chelsea."
16. "———— at Haslar."
17. "———— at Plymouth."
18. "———— to the Naval Asylum."
19. "———— in her Majesty's Navy."
20. "———— of her Majesty's Gaol of Newgate."
21. "———— of the Penitentiary at Milbank."

LIST (continued) of grounds for licences for non-residence where the incumbent was in possession before 14th August, 1838.

22. "His being chaplain of the British Factory established at ——."
23. "His being principal surrogate or official in the Ecclesiastical Court of the diocese of ——."
24. "His being librarian of the British Museum."
25. "————— of Sion College."
26. "His being one of the trustees of Lord Crewe's charity."

Note.—Licences granted on the grounds before enumerated, from No. 10 to 26 (inclusive), can only be granted "during the time of personal attendance on the duties of the office respectively."

A licence for non-residence* may be granted by virtue of the act 1 & 2 Victoria, c. 106, sect. 43, to any incumbent of a benefice for any of the five following reasons; which may be stated in the petition for a licence, as here arranged:—

Grounds for licences, where the incumbent was not in possession till after 14th August, 1838.

On account of

1. "His incapacity of mind or body."—A medical certificate will be required.
2. "The dangerous illness of his wife; or child, making part of his family, and residing with him as such."—A medical certificate will be required.

[In this case, the bishop may only grant a licence for six months;—and it may not be renewed, save with the allowance of the archbishop of the province.]

3. "There being no house of residence."—[See note below.]
4. "The house of residence being unfit for his residence, such unfitness not being occasioned by his negligence, default, or other misconduct; and your petitioner keeping such house, and the buildings belonging thereto, in good and sufficient repair and condition, to the satisfaction of your lordship."

Note as to 3 and 4.—A certificate, under the hands of two neighbouring incumbents, countersigned by the rural dean (if any), must be produced to the bishop, that no

* See note at the foot of p. 86, as to copy of licence being sent by incumbent to churchwardens.

house, convenient for the residence of the incumbent, can be obtained within the parish, or within the precincts prescribed by the act [see act 1 & 2 Victoria, c. 106, sect. 43].

5. "His occupying in the same parish a mansion or messuage whereof he is owner; he keeping the house of residence, and other buildings belonging thereto, in good and sufficient repair and condition."

When a petition is presented for a licence for reason No. 5, the incumbent is to produce to the bishop proof to his satisfaction, that the house of residence and buildings are in good and sufficient repair and condition.

Every petition for licence for non-residence to be in writing, and to state certain particulars.

By the act 1 & 2 Vict. c. 106, sect. 42, it is enacted, "That every spiritual person applying for a licence for non-residence shall present to the bishop a petition, signed by himself or by some person approved by the bishop in that behalf, and shall state therein whether such spiritual person intends to perform the duty of his benefice in person, and in that case where and at what distance from the church or chapel of such benefice he intends to reside; and if he intends to employ a curate, such petition shall state what salary he proposes to give to such curate, and whether the curate proposes to reside or not to reside in the parish in which such benefice is situate; and if the curate intends to reside therein, then whether in the house of residence belonging to such benefice, or in some and what other house: and if he does not intend to reside in the parish, then such petition shall state at what distance therefrom, and at what place such curate intends to reside, and whether such curate serves any other and what parish as incumbent or curate, or has any and what cathedral preferment, and any and what benefice, or officiates in any other and what church or chapel; and such petition shall also state the annual value and the population of the benefice in respect of which any licence for non-residence shall be applied for, and the number of

churches or chapels, if more than one, upon such benefice, and the date of the admission of such spiritual person to the said benefice; and it shall not be lawful for the bishop to grant any such licence unless such petition shall contain a statement of the several particulars aforesaid; and every such petition shall be filed in the registry of the diocese by the registrar thereof, and shall be open to inspection, and copies thereof made, with the leave in writing of the bishop."

By sect. 46, it is enacted as follows:—

"And be it enacted, that no licence for non-residence granted under this act or under the said herein-before second recited act, shall continue in force after the thirty-first day of *December* in the year next after the year in which such licence shall have been or shall be granted.

Duration
of licences.

THE FORM OF A PETITION

For a licence for non-residence, where the incumbent intends to perform the duty in person [*but see the form of petition page 85, if the house in which the incumbent resides be within the specified distance of three miles or two miles (as the case may be) from his church or chapel*].

Form of
petition,
where in-
cumbent
intends to
perform
duty in
person.

To the Right Reverend —, Lord Bishop of —.

The humble petition of the Reverend —, Rector
of —, in the county of —,

SHOWETH,

That your petitioner is desirous to obtain your lordship's licence for non-residence on his said benefice, on account of

[*Here state the grounds on which the petitioner applies for a licence for non-residence; viz, if he was*

INSTRUCTIONS AS TO PETITIONS

incumbent of the benefice before the 14th day of August, 1838, then according to such one of the twenty-six reasons before enumerated, but if he was not incumbent of the said benefice before that day, then according to such one of the five reasons before enumerated, as applies to his case.]

That your petitioner intends to perform the duty of the said benefice in person, and to reside at —, distant from his parish church (*here state the distance accurately*). [*If he intends to employ a curate to assist him, he must state his name, and the amount of his stipend; and whether his curate proposes to reside or not to reside in the parish; and if not in the parish, then at what place, and at what distance therefrom; and whether such curate serves any, and what, parish, as incumbent or curate; or has any, and what, cathedral preferment; and any, and what, benefice; or officiates in any other, and what, church or chapel.*]

That the net annual value of the said benefice, estimated according to the act 1 & 2 Victoria, c. 106, sects. 8 and 10, is —, and the population thereof, according to the last returns of population made under the authority of Parliament, is —; that there is one church and one chapel [*state the real fact*] upon the said benefice; that the house of residence of the said benefice, and the buildings and fences belonging thereto, [*if any*] are in good repair and condition; and that your petitioner was admitted to the said benefice on the — day of —, in the year of our Lord 18—.

Witness his hand, this }
— day of —, 18—. }

[*Add signature and address.*]

THE FORM OF A PETITION

For a licence for non-residence, where the incumbent does not intend to perform the duty in person.

Form of petition, where the incumbent does not intend to perform his own duty.

To the Right Reverend —, Lord Bishop of —.

The humble petition of the Reverend —, Rector of —, in the county of —,

SHOWETH,

That your petitioner is desirous to obtain your lordship's licence for non-residence on his said benefice, on account of

[Here state the grounds on which the petitioner applies for a licence for non-residence, viz., if he was incumbent of the benefice before the 14th day of August, 1838, then according to such one of the twenty-six reasons before enumerated; but if he was not incumbent of the said benefice before that day, then according to such one of the five reasons before enumerated as applies to his case.]

That your petitioner does not intend to perform the duty of the said benefice in person, but to employ the Reverend — as his curate, who is *[or is nominated and proposes to be]* licensed, with a yearly stipend of —; that he resides in the glebe house *[or he resides at a house situate at —, in the said parish, or he resides at —, in the parish of —, distant from the church of the petitioner's benefice — miles, as the case may be]*.

That his said curate does not serve any other parish as incumbent or curate, and does not officiate in any other church or chapel *[or does serve the parish of —, distant from his place of residence — miles, as incumbent,—or as curate;—or does officiate in*

the church of —, or chapel of —, as the case may be]; that he has not any cathedral preferment, nor any benefice [*if otherwise, specify what preferment or benefice he holds*].

That the net annual value of your petitioner's said benefice, estimated according to the act 1 & 2 Victoria, c. 106, sects. 8 and 10, is —, and the population thereof, according to the last returns of population made under the authority of parliament, is —.

That there is one church and one chapel [*state the real fact*] upon the said benefice; that the house of residence of the said benefice, and the buildings and fences belonging thereto [*if any*] are in good repair and condition; and that your petitioner was admitted to the said benefice on the — day of —, in the year of our Lord 18—.

Witness his hand, this }
— day of —, 18—. }

[*Add signature and address.*]

*AS to PETITIONS for Licences for Non-residence,
on Grounds not enumerated.*

By the 44th sect. 1 & 2 Vict. c. 106, it is enacted as follows:—

“ And be it enacted, That it shall be lawful for any bishop, in any case not hereinbefore enumerated, in which such bishop shall think it expedient, to grant to any spiritual person holding any benefice within his diocese a licence to reside out of the limits of such benefice: Provided always, that in every such case the nature and special circumstances thereof, and the reasons that have induced such bishop to grant such licence, shall be forthwith transmitted to the archbishop of the province, who shall forthwith proceed therein as herein-after provided in cases of appeal, and shall allow or disallow such licence in the whole or in part, or make any alteration therein, as to the period for which the same may have been granted, or otherwise; and no such licence shall be valid unless it shall have been so allowed by such archbishop, such allowance thereof being signified by the signing thereof by such archbishop: Provided also, that it shall not be necessary in such licence to specify the cause of granting the same.”

In cases not enumerated, bishops may grant licences to reside out of limits of benefice, subject to allowance by the archbishop.

In case the incumbent of any benefice is desirous to obtain a licence for non-residence, on special grounds not enumerated, he must present a petition to the bishop, in the same form as in a case enumerated, but stating the special grounds (*in the place of the enumerated grounds*) with precision. A licence¹ of this description is not valid until allowed by the archbishop of the province under his hand: to obtain such allow-

Instructions for petitions for licences for non-residence, on grounds not enumerated.

¹ See note at the foot of p. 86 as to copy of licence being sent to churchwardens by the incumbent.

ance, it is necessary that the bishop should transmit the licence, when signed by him, to the archbishop, with a letter, stating the nature and special circumstances of the case, and the reasons which induced him to grant the licence. *In such a licence it is not necessary to specify the cause of granting it.*

OBSERVATIONS as to Non-residence on a Benefice, showing when Penalties do, and when they do not, attach, under the Provisions of the Act 1 & 2 Victoria, c. 106.

Incumbent incurs penalties by absence exceeding three calendar months in any one year, unless licensed by the bishop; or exempted; **THE** incumbent of a benefice is considered to be non-resident, when absent for a period or periods exceeding altogether three calendar months in any one year; and he is, in consequence of such absence, subject to the penalties for non-residence, except under the following circumstances, viz. *first*, when he is absent under the authority of a licence from the bishop, and according to the terms and conditions of such licence: *secondly*, when, under the provisions of the act, he is exempted from such penalties wholly or in part, according to the terms of such exemption, in virtue of some dignity or office which entitles him to such exemption [*see the List of Exemptions before set forth*]: and *thirdly*, when he is legally resident at some other benefice of which he may be possessed.

or legally resident on another benefice held by him.

The 32nd and 33rd sections of the act 1 & 2 Vict. c. 106, show what constitutes legal residence.

Same penalties as for non-residence incurred by neglect of bishop's monition to repair glebe house. **By** the 41st section of the same act the penalties for non-residence attach where an incumbent not residing in glebe house neglects to repair the same after the bishop's monition.

It has been before observed, but it may be well to repeat, that, by the 50th section of the act, it is required, that a copy of every licence for non-residence, and a statement in writing of the grounds of exemption, shall be transmitted by the spiritual person to whom such licence shall have been granted, or who may be exempted from residence, to the churchwardens or the chapelwardens of the parish or place to which the same relates, within one month after the grant of such licence, or of his taking advantage of such exemption, as the case may be; and if he neglects so to transmit a copy of such licence or statement of exemption he will lose all benefit of such licence; and until he shall have transmitted such statement he will not be entitled to the benefit of such exemption.

Incumbent
to transmit
a copy of
licence, or
statement
of exemp-
tion, to the
church-
wardens,
to entitle
him to the
benefit
thereof re-
spectively.

ANNUAL Returns of Residence, by the Bishops, to the Queen in Council.

Annual return by bishops to the privy council, concerning residence, &c.
Full and specific answers to be made by incumbents.

Particular attention to this regulation recommended.

THE bishop of each diocese is required to make to her Majesty in council, on the 25th day of March in every year, a return of the residence and non-residence of incumbents of benefices in his diocese, for the preceding year. To enable the bishops to do this, incumbents of benefices are, by the 52nd section of the act, required to transmit to the bishop full and specific answers to questions (contained in the 1st schedule to the act, and which the bishops are to send to their clergy yearly, in the month of January), within three weeks after they shall receive the same from the bishop.

The particular attention of incumbents to this requisition is respectfully recommended; as it is obvious that it is impossible for the bishops to make their returns correctly and in due time, unless incumbents do send full and specific answers to the questions within the limited period of three weeks.

*AS to the Residence on their Deaneries and Canonries
of Deans and Canons appointed after 11th of August,
1840.*

By the act 3 & 4 Vict. c. 113, sect. 3, it is enacted, ^{Residence}
“That in every cathedral and collegiate church the term ^{of deans}
of residence to be kept by every dean thereof hereafter ^{and}
appointed [viz. after 11th August, 1840], shall be eight ^{canons.}
months, at the least, in every year; and the term of
residence to be kept by every canon thereof hereafter
appointed shall be three months, at the least, in every
year.”

[See the 7th section of this act as to the cathedral ^{Christ}
church of Christ Church, Oxford.] ^{Church,}
^{Oxford.}

AS to ENDOWMENTS.

2 & 3 Vict. c. 49, ss. 12, 13, and 3 & 4 Vict. c. 20, sect. 5, endowments provided for churches or chapels may be vested in the governors of Queen Anne's Bounty, either in the first instance, or by a transfer from existing trustees; and such endowments thereupon (subject to the trusts upon which they were originally provided), acquire the character of original appropriations made by the governors out of the royal bounty.

Directions to parties proposing to vest such endowments in the governors. Whenever it is desired that an endowment of a church or chapel should be accepted by the governors of Queen Anne's Bounty, application should be made to the governors (through their secretary), for their consent, under seal; printed queries are then issued, the answers to which are laid before the governors for their consideration: if the endowment is approved, they direct their solicitor to prepare, free of expense to the governors, the necessary documents.

The governors do not accept any other endowments than those in trust for the incumbent or minister. It should be clearly understood that the governors will not accept a trust for the repairs of a church or chapel, nor for any other purpose than for the benefit of the incumbent or minister.

*APPROPRIATIONS of Money or Stock by the
Governors of Queen Anne's Bounty.*

APPROPRIATED money or stock belonging to a living Source of
in the hands of the governors of Queen Anne's Bounty appropria-
has arisen or may arise from the following sources :— tions.

1. BY GRANT from the governors to the living, either By grant.
by lot or to meet a benefaction.

2. BY BENEFACTION or gift made by donors to the By bene-
governors for the benefit of the living. faction or
gift.

3. BY ENDOWMENTS provided for churches, and given 2 & 3 Vict.
or transferred to the governors. c. 49, s. 12.
3 & 4 Vict.
c. 20, s. 5.

4. BY SURPLUS MONEY proceeding from the sale of 1 & 2 Vict.
house of residence and land. c. 23, s. 7.
2 & 3 Vict.
c. 49, s. 14.

5. BY THE SALE of houses and buildings, other than 1 & 2 Vict.
the house of residence. c. 23, s. 2 & 3
Vict. c. 49,
ss. 17, 19.

6. BY THE SALE of lands originally purchased by, or 2 & 3 Vict.
acquired by means of, Queen Anne's Bounty. c. 49, ss.
15, 16.

7. BY THE SALE of land for enlarging a churchyard. 56 G. 3, c.
141.

8. BY THE SALE of property belonging to an incum- 8 & 9 Vict.
bent in right of his church, under the powers of the acts c. 70, s. 20.
relating to the building of new churches; such money
being now directed, in every case, to be paid to the
governors of Queen Anne's Bounty, instead of into the
bank of England, or to trustees.

9. BY THE REDEMPTION of the tithe rent-charge 9 & 10 Vict.
belonging to an incumbent. c. 73.

Divers
Acts.

10. BY THE SALE of property belonging to a benefice or enfranchisement of copyhold held of a manor belonging to a benefice under the powers of acts of parliament which have specially directed the purchase-money, or the consideration for enfranchisement, to be paid to the governors.

Such appropriated money or stock is applicable to the following purposes :—

1. THE PURCHASE of lands, tithes, or other hereditaments.

42 Geo. 3, c. 116, ss. 44, 161. 2. THE REDEMPTION of the land tax charged upon the living, or the purchase of other land tax.

53 Geo. 3, c. 123, s. 32. 43 Geo. 3, c. 107. 3. THE BUILDING, rebuilding, or purchasing of a house of residence, &c., within the parish.

1 & 2 Vict. c. 106, s. 34. 4. THE PURCHASING, building, or procuring of a house of residence, not in the parish, but convenient for residence.

As to money arising from the sale of a house of residence, 2 & 3 Vict. c. 49, s. 14. As to the money arising by the sale of a house of residence and land, and paid to the governors of Queen Anne's Bounty, under the provisions of the act 1 & 2 Vict. c. 23, it should be observed that this does not, in the first instance, become appropriated money, but the governors are required to invest such money in the public funds, and add the dividends, from time to time, to the principal, until the same, or a sufficient part of it, shall be applied to the purposes directed by the 9th section of the same act: if there remains a surplus, that surplus becomes appropriated money.

Appropriations out of Royal Bounty Fund not converted into stock. Money appropriated to a living out of the Royal Bounty, and money given by benefactors to obtain grants out of that fund, are not converted into stock, but interest on the amount is paid to the incumbent, subject to certain regulations.

Appropriated money proceeding from any other source than the Royal Bounty is converted into three per cent. stock, and the dividends paid to the incumbent.

Appropriations other than out of Royal Bounty Fund converted into stock.

It is not necessary to point out the mode of proceeding in the disposal of appropriated money to any of the purposes to which it is applicable, as printed directions and forms, to meet every case as it arises, may be obtained from the secretary to the governors of Queen Anne's Bounty.

As to disposal of appropriated money.

It may be observed, however, that the governors do not, in general, permit appropriated money or stock to be applied to building purposes², unless where the appropriation has been made for the express purpose of providing a house or rendering one habitable, until the incumbent has raised a sum, approved by the governors, by a mortgage of the revenues of his benefice, if the same afford a sufficient security.

Application of appropriated money to building purposes.

² It is not usual for the governors to allow a larger sum appropriated to a living than £500 to be so applied.

SUMMARY of the various Powers possessed by an Incumbent of dealing with the Possessions of his Benefice in the way of Mortgage—Sale—Exchange—and Gift; and also of the means which he possesses of acquiring property by Purchase—Exchange—and Benefaction.

SUMMARY of Powers of Mortgage.

A BENEFICE may be mortgaged for the following purposes :—

(1.) FOR BUILDING, rebuilding, or repairing house of residence and offices.

By the Incumbent, with consent of patron and ordinary, under 17 Geo. III. c. 53; 21 Geo. III. c. 66; 1 & 2 Vict. c. 23.

By the Bishop or other Ordinary, with consent of patron, under 17 Geo. III. c. 53, sect. 8.

By the Bishop, after the next vacancy, subsequent to the passing of the act, without consent of patron or incumbent, under 1 & 2 Vict. c. 106, sects. 62 *et seq.*

(2.) FOR PURCHASING a house of residence and buildings.

By the Incumbent, with consent of patron and ordinary, under 17 Geo. III. c. 53, sect. 10; 1 & 2 Vict. c. 23.

By the Bishop, after the next vacancy, subsequent to the passing of the act, without consent of patron or incumbent, under 1 & 2 Vict. c. 106, sect. 70.

(3.) FOR PURCHASING land with or without buildings thereon, to the extent of twenty acres, where the existing glebe does not exceed five acres, with a view to the building of a residence house, or the enlargement of the glebe, for actual occupation by the incumbent.

By the Incumbent. with consent of patron and bishop, under 55 Geo. III. c. 147, sects. 6 and 7.

(4.) FOR PURCHASING a site for a house of residence.

By the Incumbent, with consent of patron and ordinary, under 1 & 2 Vict. c. 23, sect. 1.

By the Bishop, after the next vacancy, subsequent to the passing of the act, without consent of patron or incumbent, under 1 & 2 Vict. c. 106, sect. 70.

By the Incumbent, by act 28 & 29 Vict. c. 69.

1. For all the purposes for which he is by former acts authorized to borrow.
2. For the purpose of purchasing any lands or hereditaments, not contiguous to or desirable to be used or occupied with the parsonage house or glebe belonging to such benefice.
3. For the purpose of building any offices, stables, or outbuildings, or fences, necessary for the occupation or protection of such parsonage.
4. For the purpose of restoring, rebuilding, or repairing the fabric of the chancel of the church of such benefice where the incumbent is liable.
5. For the purpose of building, improving, enlarging, or purchasing any farm-house, or farm-buildings, or labourers' dwelling-houses, belonging to or desirable to be acquired for any farm or lands appertaining to such benefice.
6. And the act allows the sum to include the amount of the charges and expenses of the architect or surveyor, and also the costs and expenses of and incidental to the preparation of the mortgage deed, and of and incidental to any purchase authorized by former acts or this act.

Note.—As to benefices augmented by the Ecclesiastical Commissioners, no mortgage can be made by an incumbent without their consent. See 5 & 6 Vict. c. 26, sect. 13.

Whenever money for any of the above purposes is proposed to be borrowed of the governors of Queen Anne's Bounty, application should be made to their

Applica-
tions for
loans by
governors
of Queen

Anne's
Bounty to
be made
to their
solicitor.

solicitors, Messrs. Burder and Dunning, No. 27, Parliament Street, S.W., who will immediately supply printed instructions; it is wholly unnecessary, therefore, to specify them in this work.

SUMMARY of Powers of Sale by Incumbents.

1. Sale of house of residence, &c.
2. „ of houses on glebe, other than the house of residence.
3. „ of glebe lands or tithes.
4. „ of lands, &c., acquired by means of Queen Anne's Bounty.
5. „ of land to the extent of twelve acres, with house of residence.
6. „ of land for enlarging a churchyard.
7. „ of land for the site of a church, burial-ground, &c.
8. „ of land, &c., for residence of minister of a new church.
9. „ of land for a new or additional burial-ground.
10. „ of sites for churches, churchyards, and parsonages.
11. „ of land for a site for a house of residence.
12. „ of tithe rent-charge.
13. „ of lands and hereditaments under the land tax redemption acts.
14. „ of land for site of a school.
15. „ of messuages, buildings, and lands for various purposes authorized by several Acts of Parliament relating to incumbents of benefices.
16. „ of lands, &c., under the general leasing act.

1 & 2 Vict.
c. 23, ss. 7,
8, 9.

(1.) HOUSE OF RESIDENCE and appurtenances, with or without land contiguous, may be sold when inconveniently situated, or for other good reasons. (1 & 2 Vict. c. 23.)

This act (sect. 7) provides, that where the residence house, gardens, orchard, and appurtenances belonging to any benefice, shall be inconveniently situate, or for other good and sufficient reasons it shall be thought advisable to sell and dispose thereof, it shall be lawful for the incumbent, with the consent of the ordinary and patron, and of the archbishop of the province, to be signified by their executing the deed of conveyance, absolutely to sell and dispose of such house, gardens, orchard, and appurtenances, any or either of them, with any land contiguous thereto not exceeding twelve acres, either altogether or in parcels, and for such sum or sums of money as to such ordinary, patron, and archbishop shall appear fair and reasonable; and upon payment of the purchase-money, to convey and assure such premises to the purchaser.

Provisions
of act as
to sale.

1 & 2 Vict.
c. 29.

By sect. 8, the purchase-money is to be paid to the governors of Queen Anne's Bounty; and (by sect. 9) is to be applied by them, after payment of the costs and expenses of the sale, in or towards the erection or purchase of some other house and offices, or the purchase of an orchard, garden, and appurtenances, or land for the site of a house, any or either of them, together with land contiguous thereto, and not exceeding twelve acres, suitable for the residence and occupation of the incumbent of such benefice, and approved of by the ordinary and patron, whose written approval is to be deposited in the registry of such ordinary; and such house is from thenceforth to be deemed the house of residence of such benefice for all purposes whatsoever.

Payment
of pur-
chase
money, and
applica-
tion of it in
the pur-
chase or
erection of
a house or
purchase
of a site, &c.

The 25th section of the act 1 & 2 Vict. c. 106, enacts that the provisions of the act 1 & 2 Vict. c. 23, in regard to the sale of the house, &c., of a living, and the application of the proceeds of the sale, shall apply to the case of a benefice divided or separately endowed under the Church Building Acts, and a benefice disunited under the provisions of the act 1 & 2 Vict. c. 106, and

1 & 2 Vict.
c. 106,
s. 25.

Sale of
house on
the dis-
union of

a united
benefice.

that the proceeds may be applied in or towards the erection or purchase of a house, &c., for the residence of an incumbent within each of the parishes so disunited, or each division of a benefice so divided, in such proportions as may be approved of by the archbishop of the province, the patron, ordinary, and incumbent, and confirmed by the Queen in council.

[*See instructions* for the exercise of powers of sale; and as to the money arising by the sale, see title "Appropriated Money."]

2 & 3 Vict.
c. 49, ss.

17, 18, 19. (2.) GLEBE HOUSES AND BUILDINGS with the appurtenances, not being the house of residence, may be sold when old and ruinous, or for other good reasons. (2 & 3 Vict. c. 49.)

Provisions
of act as to
sale.

By the 17th section of this act it is enacted, that in any case in which any dwelling-house, shop, warehouse, or other erection or building (other than the house of residence) belonging to any benefice, shall be so old and ruinous as that it would be useless or inexpedient to expend money in repairing and maintaining the same, or for other good and sufficient reasons it shall be thought advisable to sell and dispose of the same, it shall be lawful for the incumbent of such benefice, with the consent and approbation of the ordinary and patron, and of the archbishop of the province (to be signified in the manner prescribed by the act 1 & 2 Vict. c. 23), absolutely to sell and dispose of such dwelling-house, shop, warehouse, or other erection or building, with the yards, gardens, orchard, croft, and appurtenances thereto belonging, or any of them, either altogether or in parcels, and for such sum or sums of money as to such ordinary, patron, and archbishop shall appear fair and reasonable.

Payment
of purchase-
money.

The purchase-money in this case is to be paid (sects. 18 and 19) to the governors of Queen Anne's Bounty, and thereupon becomes appropriated money in the hands of the said governors.

[See title "Appropriated Money;" and instructions for the exercise of the foregoing power of sale.]

(3.) GLEBE LANDS OR TITHES may be sold for purchasing land adjoining or convenient to a house of residence, not having glebe near or convenient. (17 Geo. 3, c. 53.)

This act, after (by sect. 10) giving power to the ordinary, patron, and incumbent of a living, under certain circumstances, to purchase a house or buildings for residence, and to purchase land, under certain restrictions as to quantity, adjoining or lying convenient to such house or buildings, or to the house or building belonging to any living having no glebe lying near or convenient to the same, directs, by the 11th section, that the purchase-money or equivalent for such lands shall be raised and had by sale or exchange of some part of the glebe or tithes of the living, which shall appear to the ordinary, patron, and incumbent most convenient for the purpose; and the schedule to the act contains the form of the deed to be used in such a case.

Provisions of act for sale to raise money to purchase land adjoining or convenient to house.

(4.) LANDS acquired by means of Queen Anne's Bounty may be sold. (2 & 3 Vict. c. 49.)

2 & 3 Vict. c. 49, ss. 15, 16, 18, 19.

- i. When not within the parish or an adjoining parish.
- ii. Under special circumstances, when in the parish, or an adjoining parish.

By the 15th section of this act it is enacted, that in every case where lands or hereditaments, which shall have been appropriated or annexed to any benefice by or with the concurrence of the governors of Queen Anne's Bounty, are situate elsewhere than within the parish or parishes of such benefice, or some adjoining parish or parishes, it shall be lawful for the incumbent of such benefice, with the consent of the said governors, and of the patron and ordinary, to sell such lands or hereditaments, or any part thereof, by public sale or private contract, and thereupon duly to convey the same.

Provisions of act as to sale.

Provisions
as to sale
under
special
circum-
stances.

The 16th section provides for the sale of such lands, under special circumstances, when situate within the parish or parishes of such benefice or some adjoining parish or parishes; but in this case, the consent, in addition, is required of the archbishop of the province.

Applica-
tion for
instruc-
tions.

Whenever a sale is contemplated by an incumbent under the powers of this act, he should apply to the secretary to the governors of Queen Anne's Bounty for instructions how to proceed; but as in all cases the governors require a plan of the estate, as well as a formal survey and valuation by a surveyor duly appointed for the purpose by the bishop of the diocese, by which some expense would be occasioned, incumbents are recommended not to take any steps unless under a confident impression that the governors will see reason to approve of the sale.

Caution
as to ex-
pense.

1 & 2 Vict.
cc. 23 and
29.

(5.) LAND to the extent of twelve acres, contiguous to a house of residence, may be sold with such house. (1 & 2 Vict. cc. 23 and 29.)

[See No 1, which also applies to this case.]

56 G. 3,
c. 141.

(6.) LAND to the extent of one acre may be sold for enlarging a churchyard. (56 Geo. 3, c. 141.)

Provisions
of act as
to sale.

This act enables any spiritual or ecclesiastical body corporate, or spiritual person being a corporation sole, possessing any land adjacent to any cemetery, churchyard, or burying-ground, to sell, by indenture of bargain and sale enrolled, for the purpose of consecration, such portion thereof, to the extent of one acre, as may be necessary for enlarging such cemetery, &c.

Directions
as to
consent,
valuation,
and appli-
cation of
purchase-
money.

The act requires the consent of the ordinary and patron to a sale by a spiritual person being a corporation sole, and that previous to the conveyance the value of the land shall be ascertained, on oath, by a surveyor to be appointed by the ordinary; and directs that, in case the value shall exceed 100*l.*, other lands of at least equal value, estimated in like manner, shall be conveyed as the consideration; and if the value shall exceed 20*l.*

and shall not amount to 100*l.*, such value shall be paid to the governors of Queen Anne's Bounty, to be by them applied for the benefit of such spiritual person in the same manner as they are empowered by law to apply other sums of money coming into their hands; and in case the value shall not amount to 20*l.*, the same shall be paid into the hands of the spiritual person.

(7.) LAND may be sold and conveyed to the Commis- 58 G. 3,
sioners for Building New Churches (now the Eccle- c. 45, ss.
siastical Commissioners) as a site for a new church or 33, 36.
chapel (that is, a church or chapel to be built under the provisions of the Church Building Acts), and the providing a churchyard and making a proper and sufficient access and approach thereto. (58 Geo. 3, c. 45.)

(8.) A HOUSE, garden, and appurtenances, not ex- *Ibid.*
ceeding ten acres in the whole, or land to the same extent, may be sold for the residence, or for the erecting of a residence for the spiritual person serving such new church or chapel. (58 Geo. 3, c. 45.)

(9.) PROPERTY may be sold and conveyed to the 59 G. 3, c.
Commissioners for Building New Churches (now the 134, s. 37.
Ecclesiastical Commissioners), for enlarging any churchyard or burial-ground, or for making a new burial-ground and approaches. (59 Geo. 3, c. 134.)

(10.) MESSUAGES, buildings, and lands may also be 3 G. 4,
conveyed as sites for churches or chapels, or for en- c. 72, s. 1.
larging sites of churches or chapels, or for church or chapel-yards or cemeteries, or for enlarging sites for church or chapel-yards or cemeteries, or for parsonages, or residences for ecclesiastical persons. (3 Geo. 4, c. 72.)

This power applies as well to old as to new churches; and it is presumed that the words "give, grant, and convey," used in the act, would authorize a sale as well as a gift.

As the commissioners are only authorized to accept Powers
ten acres as glebe, the above powers of sale are, in effect, limited to
limited to that quantity. 10 acres.

1 & 2 Vict. (11.) LAND to the extent of five acres may be con-
 c. 107, s. 9. veyed, by way of sale, for a site for a house of residence
 of any incumbent. (1 & 2 Vict. c. 107.)

8 & 9 Vict. In every case of a sale by an incumbent under the
 c. 70, s. 20. provisions of the Church Building Acts, the purchase-
 money, instead of being paid into the Bank of England,
 or to trustees, as directed by the act 58 Geo. 3, c. 45,
 is now required to be paid to the governors of Queen
 Anne's Bounty, and thereupon becomes appropriated
 money. (8 & 9 Vict. c. 70.)

9 & 10 Vict. (12.) RENT-CHARGES not exceeding twenty shillings,
 c. 73, ss. 5. or portions of rent-charges not exceeding that amount,
 8. may be sold; the purchase-money is directed to be paid
 to the governors of Queen Anne's Bounty, and there-
 upon becomes appropriated money. (9 & 10 Vict.
 c. 73.)

42 G. 3, (13.) LANDS and hereditaments may be sold for the
 c. 116, &c. purpose of redeeming the land-tax charged on the
 living. (42 Geo. 3, c. 116; 53 Geo. 3, c. 123; &c.)

4 & 5 Vict. (14.) LAND to the extent of one acre in any one parish
 c. 38; may be sold for a school site. (4 & 5 Vict. c. 38; 12
 12 & 13 Vict. c. 49. & 13 Vict. c. 49.)

These acts authorize the conveyance of land to the
 extent of one acre in any one parish by any corpora-
 tion, sole or aggregate, and direct the application of the
 purchase-money.

[See summary of the provisions of the acts, title
"School Sites."]

(15.) MESSUAGES, buildings, or lands may be sold for
 the purposes of the acts 17 Geo. 3, c. 53 (sect. 10);
 43 Geo. 3, c. 107 (sect. 3); and 55 Geo. 3, c. 147
 (sect. 6).

7 G. 4, The act 7 Geo. 4, c. 66, authorizes the sale by
 c. 66, s. 1. corporations aggregate and sole, tenants in fee simple
 Sale by corporations, &c., and fee tail and for life, and persons under legal
 of any pro- disability, of any messuages, buildings, or lands, which
 perty which may incumbents of benefices are allowed to purchase
 be pur-

under the provisions of the three last above-mentioned acts. chased by incumbents under enumerated acts.

[See title "*Acquiring by Purchase.*"]

In the case of a sale by any other party than a fee simple owner, a map and valuation must be made and annexed to the conveyance. (sect. 2.) When map and valuation required.

And the purchase-money in such a case is to be paid into the Bank of England. (sect. 3.) Payment of purchase money.

(16.) ANY land which may be leased under the provisions of the General Leasing Act may be sold, the purchase-money being paid to the Ecclesiastical Commissioners, who have power to lend it on mortgage or to reinvest it in the purchase of other lands, &c., to be conveyed to the incumbent. (21 & 22 Vict. c. 57.) Sale of land under general leasing act.

SUMMARY of Powers of Exchange by Incumbents³.

1. Exchange of house of residence, &c.
2. „ of houses and buildings belonging to a living augmented by Queen Anne's bounty.
3. } „ of glebe land.
4. }
5. }
6. „ of lands belonging to a living augmented by Queen Anne's Bounty.
7. „ of tithes belonging to a living augmented by Queen Anne's Bounty.
8. „ of tithes.
9. „ of tithes, or rent-charges in lieu of tithes.
10. „ of lands under the provisions of the general leasing acts.
11. „ of lands, tithe rent-charge, &c., under the general enclosure acts.

55 G. 3,
c. 147; 56
G. 3, c. 52;
1 G. 4, c. 6;
6 G. 4, c. 8.
Provisions
of acts au-
thorizing
exchanges.

(1.) HOUSE OF RESIDENCE, with or without land, may be exchanged for house and lands.

By these acts power is given to the parson, vicar, or other incumbent for the time being, of any ecclesiastical benefice, perpetual curacy, or parochial chapelry, with the consent of the patron and bishop of the diocese, to convey to any person or persons, or to any corporation sole or aggregate, and their successors, the parsonage or glebe house, and the out-buildings, yards, gardens, and appurtenances thereof, and the glebe lands, and any pastures, feedings, or rights of common or way, or any of them, belonging to such benefice, perpetual curacy, or parochial chapelry, in exchange for any house, out-

³ See the last paragraph of this Summary (p. 119) for the present general practice in exchanges.

buildings, yards, gardens, and appurtenances, and any lands, or any or either of them, whether lying within the local limits of the living or not, but so as that the same be situate conveniently for actual residence, or occupation by the incumbent thereof, the same also being of greater value or more conveniently situated than the premises so to be given in exchange, and being of freehold tenure, or being copyhold of inheritance, or for life or lives (the consent of the lord of the manor to any such exchange being first obtained); and it is provided, that the premises so accepted in exchange shall for ever, from and after the conveyance thereof, be the parsonage and glebe house and glebe land and premises of the living, and shall become annexed thereto for ever; and that such premises, if previously of copyhold tenure, shall, upon the annexation thereof, become freehold.

The restriction contained in the first of these acts, in regard to the quantity of land to be conveyed in exchange, is removed by the 6 Geo. 4, c. 8, which authorizes the exchange of any quantity.

Removal of restriction with regard to quantity of land to be exchanged.

The 1st and 12th sections of the act 55 Geo. 3, c. 147, contain all necessary powers authorizing incumbents to accept, and corporations and persons under legal disabilities to convey, in exchange.

The act 56 Geo. 3, c. 52, enables the incumbent, with consent of patron and bishop, to apply the moneys arising by sale of any timber cut and sold from the glebe lands of his living or from any other land, the timber whereof belongs to the living, for or towards equality of exchange.

(2.) HOUSES AND BUILDINGS, with or without land, belonging to a living augmented by Queen Anne's Bounty, may be exchanged for lands or tithes of equal or greater value.

1 G. 1, c. 10, s. 13; 48 G. 3, c. 107, s. 2.

By the 13th section of the act 1 Geo. 1, c. 10, authority is given, with the concurrence of the gover-

Provisions of the act as to exchanges.

nors of Queen Anne's Bounty, and of the incumbent, patron, and ordinary of any augmented living or cure, for the exchange of all or any part of the estate settled for the augmentation thereof, for any other estate in lands or tithes of equal or greater value, to be conveyed to the same uses.

The same extended.

The 2nd section of the act 43 Geo. 3, c. 107, extends the above power to all the messuages, buildings, and lands belonging to every such augmented living or cure.

Application to be made to secretary.

Note.—An incumbent desiring to effect an exchange under the powers of these acts should apply for instructions to the secretary to the governors. The business of the exchange, after approval of the same, will be conducted by their solicitors, Messrs. Burder & Dunning, 27, Parliament Street, S.W.

Caution with reference to expenses.

As, however, all the expenses attending such an exchange must be borne by the parties, and the employment of a surveyor to make a plan, survey, and valuation, &c., of the estates, is in all cases required, incumbents are cautioned against taking any steps unless they have good reason to believe that the advantage or convenience to the incumbent, for the time being, will be such as to induce the governors to sanction the exchange. The governors have established a scale of charges, to be adopted by their solicitors.

55 G. 3, c. 147; 56 G. 3, c. 52; 1 G. 4, c. 6; 6 G. 4, c. 8. 17 G. 3, c. 53, ss. 10, 11.

(3.) GLEBE LAND may be exchanged for other land, whether in the parish or not.

[See No. 1, which also applies to this case.]

(4.) GLEBE LAND may be exchanged for land adjoining or convenient to a house of residence not having glebe near or convenient.

Provisions of the act 17 G. 3, c. 53, as to exchanges.

The 11th section of this act provides that when any land lying near to the parsonage house and buildings, belonging to an ecclesiastical living, parochial benefice, chapelry, or perpetual curacy, or to the house and buildings to be purchased under the powers of the act, shall be thought fit to be taken and used as a convenience to

the same, the purchase-money or equivalent for such land shall be raised by sale or exchange of some part of the glebe or tithes of such living or benefice, which shall appear to the ordinary, patron, and incumbent most convenient for that purpose; and the schedule to the act contains the form of the deed to be used in such a case.

(5.) GLEBE LAND may be exchanged for other land, 5 & 6 Vict. c. 54, ss. 5, 20; & 9 & 10 Vict. c. 73.) (5 & 6 Vict. c. 54, and 9 & 10 Vict. c. 73.)

Under the 5th and 20th sections of the former of these acts the Tithe Commissioners have power, during the continuance of their commission, as well before as after the completion of any commutation, upon the application of a spiritual person, to exchange all or any portion of the lands of his benefice for other land within the same or any adjoining parish, or otherwise conveniently situated, the consent of the ordinary patron and landowner being obtained.

(6.) LANDS belonging to a living augmented by Queen Anne's Bounty may be exchanged for lands of equal or greater value. 1 G. 1, c. 10, s. 13; 43 G. 3, c. 107, s. 2.

[See No. 2, which also applies to this case.]

(7.) TITHE RENT-CHARGES belonging to a living augmented by Queen Anne's Bounty may be exchanged for lands or tithes of equal or greater value. *Ibid.*

[See No. 2, which also applies to this case.]

(8.) TITHE RENT-CHARGES may be exchanged for land adjoining or convenient to a house of residence not having glebe near or convenient. 17 G. 3, c. 53, ss. 10, 11.

[See No. 4, which also applies to this case.]

(9.) TITHE RENT-CHARGES may be exchanged for land in the parish to the extent of twenty acres, under the Tithe Commutation Acts. 6 & 7 W. 4, c. 71, ss. 29, 62; 2 & 3 Vict. c. 62, ss. 19, 20, 21; 5 & 6 Vict. c. 54, s. 6.

Under the 29th and 62nd sects. of the act 6 & 7 Wm. 4, c. 71, intituled "An Act for the Commutation of Tithes Exchange of rent-charge for land.

in England and Wales," freehold or fine certain copyhold land, not exceeding twenty acres, may be acquired by ecclesiastical persons, with the consent of the patron and commissioners, in the way of exchange for tithes, or rent-charge in lieu of tithe, at any time before confirmation by the commissioners of the apportionment of rent-charge.

The same extended as to time of making an exchange.

By the 19th section of the act 2 & 3 Vict. c. 62, the above power is extended so as that land may be acquired in exchange for tithes or tithe rent-charge at any time after as well as before the confirmation of the apportionment; and the time for thus acquiring lands is co-extensive with the tithe commission.

Title to land taken in exchange for rent-charges. Power to corporations, &c.,

The 20th section gives the ecclesiastical tithe owner an unqualified title to the land thus acquired by exchange; and the 21st section gives power to corporations sole and aggregate, and trustees for charitable purposes, to give land in exchange.

Powers of exchange extended in certain cases.

These powers of exchanging tithe or rent-charge for land are further extended by the 6th section of the act 5 & 6 Vict. c. 54, which, after adverting to the inconvenience arising from the inability of landowners who may give land instead of vicarial tithe to free their lands from rectorial tithe, and the converse, authorizes any tithe owner to agree for the assignment to any other owner of tithes issuing out of the same lands, of so much of his tithes arising within the same parish, or of the rent-charge in lieu thereof, as shall be an equivalent for the tithes belonging to such other tithe owner issuing out of the same lands, or for the rent-charge in lieu thereof, for the purpose of enabling any landowner who may be desirous of giving land for tithe to free his land from both rectorial and vicarial tithes, or rent-charge in lieu thereof.

Exchange

(10.) LANDS, &c., may be exchanged through the

instrumentality of the Ecclesiastical Commissioners, under the provisions of the Ecclesiastical Corporation Leasing Act, 21 & 22 Vict. c. 57.

(11.) LANDS, TITHE RENT-CHARGES, and every description of real estate may be exchanged through the instrumentality of the Inclosure Commissioners under the provisions of the acts relating to inclosures. (8 & 9 Vict. c. 118, sect. 147; 9 & 10 Vict. c. 70, sect. 9; 12 & 13 Vict. c. 83, sect. 7.)

The power of exchange given by the General Inclosures Acts is the one now generally resorted to as being the most complete and inexpensive. All necessary information and instructions are afforded on application to the office of the Inclosure Commissioners in St. James's Square.

under the
general
leasing act.

Exchange
under the
acts re-
lating to
inclosures.

Present
practice
is to
exchange
under the
general
inclosure
acts.

SUMMARY of Powers given to Incumbents to convey gratuitously.

1. Gift of buildings, lands, &c., for the purposes of *new churches, &c.*
2. Similar gift for the purposes of *old or new churches, &c.*
3. Gift of land to be annexed to a church, &c.
4. „ of tithes, land, or rent-charge to a chapel, &c.
5. „ of land for a school site.
6. „ of waste land convenient to a house of residence.
7. „ of stipend to a chapel.
8. Distribution of endowments of united benefices upon the disunion thereof.
9. Assignment of part of endowments to a chapelry, &c., upon separation.

Incumbents may make gratuitous alienations of property belonging to them in right of their benefices for the following purposes:—

58 G. 3,
c. 45, ss.
33, 34

(1.) They may convey to the Commissioners for Building New Churches (now the Ecclesiastical Commissioners) any building or buildings fit to be used for or to be converted into a church or chapel; also any lands, tenements, and hereditaments for a site of a church or chapel and churchyard and proper approaches thereto; also any house, garden, and appurtenances, not exceeding ten acres in the whole, for the residence of the minister of such church or chapel.

Note.—This power applies to *new churches*, that is, to churches built under the provisions of the church building acts, only.

8 G. 4,
c. 72, s. 1.

(2.) They may convey to the Commissioners for Building New Churches (now the Ecclesiastical Commissioners) any messuages, buildings, lands, grounds, tenements,

or hereditaments, to be used as sites for churches or chapels, or for enlarging sites of churches or chapels; or for church or chapel-yards or cemeteries; or for enlarging sites for church or chapel-yards or cemeteries; or for parsonages or residences for ecclesiastical persons.

Note.—This power applies as well to *old as to new churches*.

As the commissioners have no power to accept more than ten acres as glebe, all conveyances under the above powers must be limited to that quantity. Limit to 10 acres.

(3.) They may grant to an incumbent or other corporation any land not exceeding one acre to be annexed to a church or chapel, or house of residence, or to a church-yard or curtilage thereto belonging, or for a site for a church or chapel or house of residence. 43 G. 3, c. 108, s. 4.

A conveyance under this power must be made with the consent of the patron and ordinary, and by deed enrolled according to the directions of the act 27 H. 8. (within six months from the date). The authority to convey extends to bodies politic or corporate, sole or aggregate. Directions as to conveyance.

(4.) They may, in certain cases, under the act 1 & 2 W. 4. Wm. 4, c. 45, annex tithes to a church or chapel within the parish in which the tithes arise⁴. c. 45, s. 20.

They may also, under certain circumstances, augment a chapel of ease, parochial chapel, or district church or chapel, or (under the act 1 & 2 Vict. c. 107, sect. 14) a consolidated chapelry, by annexing thereto part of the revenues of their benefices, or by granting a rent-charge. s. 21. 1 & 2 Vict. c. 107, s. 14.

They may, under the act 17 & 18 Vict. c. 84, with consent of patron and bishop, annex land belonging to 17 & 18 Vict. c. 84.

⁴ As to the powers which an incumbent possesses of making augmentations, and for instructions for the exercise of those powers, see *The Summary of Provisions* relating to augmentations set forth in this work.

them to any church in the parish within which such land may be situate.

4 & 5 Vict. c. 38; 7 & 8 Vict. c. 37; 12 & 13 Vict. c. 49; 14 & 15 Vict. c. 24. (5.) They may also, with consent of patron and bishop, convey land to the extent of one acre in any one parish or district, for a site for a school, or for sites for various schools in the same parish or district.
[See Summary of the Provisions of the Acts, title "*School Sites.*"]

17 G. 3, c. 53, s. 21. (6.) They may, as lords of manors, grant to a living part of the waste lying convenient for the residence house and buildings.

1 G. 1, c. 10, s. 16. (7.) They may, as incumbents of the mother church, secure a stipend to a church or chapel proposed to be augmented by Queen Anne's Bounty.

This power is possessed by them independently of patron or ordinary, and may be exercised upon any agreement for the purpose with the governors of Queen Anne's Bounty.

1 & 2 Vict. c. 106, s. 23. (8.) Upon the disunion of a united benefice under the provisions of the act 1 & 2 Vict. c. 106, the endowments of the united benefice may, by means of an order in council, be distributed between the disunited benefices according to the recommendation of the archbishop of the province, assented to by the patron.

s. 26. (9.) Upon the separation of a chapelry, &c., from a benefice under the provisions of the act 1 & 2 Vict. c. 106, part of the possessions of the benefice may, by means of an order in council, and with the consent of the patron, be assigned and attached to the chapelry, &c., so separated and constituted a separate benefice.

This dealing with the possessions of the benefice takes immediate effect with the consent of the incumbent—otherwise on his vacating the benefice.

*SUMMARY of Powers given to Incumbents to acquire
by Purchase.*

1. Purchase of house of residence, &c.
2. „ of house of residence, &c., at the instance of the bishop.
3. „ of house of residence, &c., by means of the governors of Queen Anne's Bounty.
4. „ of house of residence, &c., with appropriated money or stock in the hands of the governors of Queen Anne's Bounty.
5. „ of land lying convenient to a house of residence.
6. „ of land for a site for a house of residence.
7. „ of land for a site of house, or for enlarging the glebe.
8. „ of land for occupation, or for a site for a house.
9. „ of land contiguous to a house of residence, or to a site for one.
10. „ of land or tithes with appropriated money or stock in the hands of the governors of Queen Anne's Bounty.
11. „ of house, land, &c., for the residence of the minister of a new church.
12. „ of messuages, land, &c., for residence of incumbent of new or old church.
13. „ of land for a site for a house of residence of any incumbent.
14. „ of lands and houses with money in the hands of the Ecclesiastical Commissioners.

(1.) A HOUSE OF RESIDENCE and buildings may be purchased within one mile of the church.

17 G. 3, c. 53, ss. 10, 11;
7 G. 4, c. 66, s. 1.
Provisions of the acts for purchase.

It is provided by section 10 of act 17 Geo. 3, c. 53, that where new buildings are necessary to be provided for the residence of the incumbent of any ecclesiastical living, parochial benefice, chapelry, or perpetual curacy, the ordinary, patron, and incumbent may contract, or may authorize the nominee appointed under the provisions of the act to contract, for the absolute purchase of any house or buildings, in a situation convenient for the habitation and residence of the incumbent of such living, and not at a greater distance than one mile from the church belonging to such living; and they may also contract for any land adjoining, or lying convenient to such house or buildings, or to the house or buildings belonging to any living having no glebe lying near or convenient to the same; such land not to exceed two acres, if the annual value of the living shall be less than £100, nor two acres for every £100 per annum, if of greater value.

Purchase-money for the buildings to be raised by mortgage.

The same section also authorizes the payment of the purchase-money *for the house or buildings* so to be purchased, out of the moneys to arise under the powers and authorities of the act; that is, by a mortgage of the profits of the living.

Terms of such mortgage.

The terms of such a mortgage are now regulated by the act 1 & 2 Vict. c. 23, as shown under the proper head in this work.

Purchase-money for the land to be raised by sale.

Section 11 directs the purchase-money for *any land* so to be purchased to be raised by sale of some convenient part of the glebe or tithes of the living.

Corporations, &c., enabled to sell.

By the act 7 Geo. 4, c. 66, the owners of messuages, buildings, or lands purchased by the incumbent of a benefice under the provisions of the above acts, whether such owners be a corporation sole or aggregate, or tenant in fee simple, or fee tail, or for life, or be under legal disability, are enabled to sell such

messuages, buildings, and lands, and to convey the same to the incumbent.

(2.) HOUSE OF RESIDENCE and buildings may be purchased in certain cases, after the next avoidance subsequent to the passing of the act, at the instance of the bishop. 1 & 2 Vict. c. 106, ss. 70, 71.

The 70th section of this act provides that where new buildings are necessary to be provided for a benefice, exceeding in value £100 per annum, and avoided after the passing of the act (August 14, 1838), and where such new buildings cannot be conveniently erected on the glebe, the bishop may contract, or may authorize the nominee appointed by him under the act to contract, for the absolute purchase of any house or buildings in a situation convenient for the residence of the incumbent, and for the purchase of land adjoining to such house or building, or to contract for land for the site of a house of residence; and he is authorized to raise the purchase-money for any of these purposes by a mortgage of the profits of the living, to the extent of four years' net income. Provisions of act for purchase.

Purchase-money may be raised by mortgage.

The terms of the mortgage so to be made are specified in the 62nd and 67th sections of the act, and are similar to those of the act 1 & 2 Vict. c. 23, set forth in this work¹. Terms of mortgage.

The buildings and land so to be purchased are to be conveyed to the patron, and his heirs or successors, in trust for the incumbent, by a deed, of which the form is given in the second schedule to the act. Purchased premises how to be conveyed.

(3.) HOUSE OF RESIDENCE and buildings may be purchased with money or stock belonging to a benefice in the hands of the governors of Queen Anne's Bounty. 1 & 2 Vict. c. 23, ss. 9, 14.

The 9th section of the act 1 & 2 Vict. c. 23, directs that the money arising by the sale of a residence- Provisions of act authorizing

¹ See also act 28 & 29 Vict. c. 69, by which powers of mortgage, &c., are extended.

purchase
or erection
of a house.

house, &c., under the provisions of that act, and paid to the governors of Queen Anne's Bounty, shall be applied by the governors in or towards the erection or purchase of some other house and offices, or the purchase of an orchard, garden, and appurtenances, or land for the site of a house, any or either of them, together with land contiguous thereto, not exceeding twelve acres, suitable for the residence and occupation of the incumbent, and approved of by the ordinary and patron; and such house should from thenceforth be deemed the house of residence of the living for all purposes whatsoever.

Powers of
act 7 G. 4,
c. 66, ex-
tended to
the present
case.

Section 14 provides, that in the case of a purchase according to the directions of the 9th section, the several powers and provisions of the act 7 Geo. 4, c. 66, shall be extended to the act for the purpose of such purchase.

Effect of
such ex-
tension.

The effect of the extension of such provisions by the last-mentioned act, to purchases to be made under this act, is, to authorize all corporations and persons under legal disabilities to convey to the incumbent of the living any house and offices or other premises which the governors of Queen Anne's Bounty may think fit, under the 9th section, to purchase; and to render it necessary, that in all cases of sale by corporations and persons under legal disability, a map and valuation on oath of the premises sold shall be made by a competent surveyor, and be annexed to and preserved with the conveyance.

43 G. 3, c.
107; 7 G. 4,
c. 66.

(4.) HOUSE OF RESIDENCE and buildings may be purchased with appropriated money or stock belonging to a benefice in the hands of the said governors.

[See title "*Appropriated Money.*"]

17 G. 3, c.
53, s. 10.

(5.) LAND may be purchased (under certain restrictions in regard to quantity) adjoining or convenient to a house of residence (to include purchase of house).

[See No. 1, which applies also to this case.]

(6.) LAND to the extent of five acres may be purchased of persons competent at law to sell for providing a house of residence and appurtenances. ^{43 G. 3, c. 108, s. 1.}

Under this act all persons seised or possessed of property in their own right (with the exception of infants, persons of non-sane memory, and married women, without their husbands, are enabled by the means there pointed out to give and grant to, and vest in any person or persons, or body politic or corporate, and their heirs and successors respectively, lands or tenements to the extent of five acres, or goods and chattels to the value of £500, for or towards the erecting, rebuilding, repairing, purchasing, or providing of a mansion house for the residence of the minister officiating, or to officiate, in any church or chapel where the liturgy and rites of the united church of England and Ireland are or shall be used; or of any outbuildings, offices, or glebe for the same: and power is thereby given to the person or persons, bodies politic or corporate, and their heirs and successors respectively, to purchase, receive, and take, hold and enjoy, for the purposes aforesaid, as well from such persons as shall be so charitably disposed to give the same, as from all other persons as shall be willing to sell or alien to such person or persons, bodies politic or corporate, any lands or tenements, goods or chattels, without any licence or writ of *ad quod damnum*. ^{Provisions of the act for purchase.}

As the act authorizes incumbents to accept lands and tenements for the purposes mentioned in the act, from all persons who shall be willing to sell and alien the same, it would seem that purchases of lands and tenements, for the purpose of providing residence houses, may be effected under the act, from all persons not under legal disability. ^{Purchases may be made, except of persons under legal disability.}

(7.) LAND to the extent of twenty acres may, in certain cases, be purchased for the purpose of building a house of residence and offices, and enlarging the glebe, or either of those purposes. ^{55 G. 3, c. 147, s. 6.}

Provisions
of the act
for pur-
chase.

By section 6 of this act, power is given to the parson, vicar, or other incumbent, of any ecclesiastical benefice, perpetual curacy, or parochial chapelry (the existing glebe whereof does not exceed five statute acres), with the consent of the patron and bishop, to purchase any lands, not exceeding in the whole twenty acres, with the necessary outbuildings thereon, whether within the local limits of the living or not, but so that the same be situate convenient for building a parsonage or a glebe house, and outbuildings, and for gardens and glebe thereof, or for any of those purposes; and for actual residence and occupation by the incumbent; such land being of freehold tenure, or copyhold of inheritance, or for life or lives holden of any manor or lordship belonging to the living: and it is provided that such lands shall for ever, from and after the conveyance thereof, be annexed to and become glebe of the living, and any such lands, which, before the annexation thereof, were of copyhold tenure, thereupon become freehold.

Purchase-
money
may be
raised by
mortgage.
To be paid
off in
twenty
(not
thirty)
years.

As a means of raising the purchase-money for any such lands, the incumbent is authorized, with the consent of the patron and bishop, to borrow upon the terms of Gilbert's Acts, such a sum of money over and besides the money authorized to be borrowed by those acts, as may be certified by a valuation upon oath of a surveyor to be the true value of the lands at the time of the purchase, not exceeding two years' clear income of the living. The money borrowed to be repaid by yearly instalments of one-twentieth part of the principal sum borrowed.

1 & 2 Vict.
c. 23, s. 1.
As to a
mortgage
to raise
money to
purchase
land under
this act.

The act 1 & 2 Vict. c. 23, sect. 1, authorizes a mortgage upon the terms of that act for the purpose of buying or procuring, if necessary, a proper site for a house and other necessary buildings⁶.

⁶ See also act 28 & 29 Vict. c. 69, by which powers of sale and mortgage by incumbents are enlarged.

The act 56 George 3, c. 52, enables an incumbent, with consent of patron and bishop, to apply the moneys arising by the sale of any timber cut and sold from the glebe lands of his living, or from any other land, the timber whereof belongs to the living, for or towards the purchase-money of any house, outbuildings, yards, gardens, and appurtenances, by the said act of the 56 G. 3, c. 52. Money produced by sale of timber to be applied towards purchase of house, &c.

Sections 12 and 13 of the 55 George 3, c. 147¹, authorize all persons, tenants in fee simple, and all corporations sole and aggregate, and all persons whatever under legal disabilities, to sell and convey to the incumbent any lands not exceeding in the whole, if belonging to an owner in fee simple, twenty acres, and in all the other cases not exceeding five acres, with the necessary outbuildings thereon, for such sum or sums of money as shall be certified to be the true value thereof at the time of the sale by a valuation on oath of some competent surveyor, to be approved of by the patron, bishop, and incumbent. Purchases under 55 Geo. 3, c. 147, ss. 12, 13. Fee simple owners may sell twenty acres, and all other under legal disability may sell five acres, for purposes of act.

By the act 7 George 4, c. 66, corporations aggregate and sole, tenants in fee simple, and in tail and for life, and persons under legal disability, are enabled to sell any messuages, buildings, and lands purchased under the provisions of the above act, 55 George 3, c. 147, and to convey the same to the incumbent. As to sales by corporations, &c. of lands purchased under act 55 Geo. 3.

(8.) LAND may, in certain cases, after the next avoidance subsequent to the passing of the act, be purchased at the instance of the bishop, either for occupation with the house of residence, or as a site for a house. As to purchase of land for occupation with house, for a site,

[See No. 2, which applies to this case also.]

(9.) LAND to the extent of twelve acres, contiguous to a new house of residence, or proposed site of a house, and 1 & 2 Vict. c. 23, ss. 9, 14; 2 & 3 Vict. c. 49.

¹ This power enlarged by act 28 & 29 Vict. c. 69.

may be purchased for a benefice with money belonging thereto in the hands of the governors of Queen Anne's Bounty.

[See No. 3, which applies to this case also.]

Purchase
of land or
tithe by
governors
of Queen
Anne's
Bounty,
and
58 Geo. 3,
c. 45,
sects. 33
and 36,

(10.) LAND OR TITHES may be purchased with appropriated money or stock belonging to a benefice in the hands of the governors of Queen Anne's Bounty.

[See title "*Appropriated Money.*"]

and 3 Geo.
4, c. 72,
sect. 1.

(11.) A HOUSE, GARDEN, and appurtenances, not exceeding ten acres, or land to the same extent, may be purchased through the medium of the Commissioners for Building New Churches (now the Ecclesiastical Commissioners), for the residence of the minister of a new church.

(12.) MESSUAGES, LANDS, &c., within the same limit, may be purchased through the same medium, for parsonages or residences of ecclesiastical persons; *i. e.* whether serving old or new churches.

Purchases
under 1 & 2
Vict. c. 107,
sect. 9,

(13.) LAND to the extent of five acres may be purchased through the same medium for a site for a house of residence of any incumbent.

and
58 Geo. 3,
c. 45,

The act 58 George 3, c. 45, contains various provisions for the conveyance to the Commissioners for Building Churches (now the Ecclesiastical Commissioners) by bodies politic, and other persons, of lands for the sites of additional churches and chapels; and by the act 1 & 2 Vict. c. 107, sect. 9, all the powers given by the first-mentioned act, for enabling bodies politic, and persons therein mentioned, to convey, and the commissioners to take, land for the sites of churches and chapels, are extended to the transfer, by sale or exchange only, of land for a site of a house of residence of any incumbent, provided the same do not exceed five acres.

and
1 & 2 Vict.
c. 107,

and 21
& 22 Vict.
c. 57,

(14.) LANDS AND HOUSES may be purchased through the instrumentality of the Ecclesiastical Commissioners with money which has proceeded from the sale of lands,

&c., under the provisions of the ecclesiastical leasing amendment act, 21 & 22 Vict. c. 57^a.

(15.) LANDS OR HEREDITAMENTS not exceeding twelve and 28 acres, may be purchased with moneys borrowed under & 29 Vict. act 28 & 29 Vict. c. 69.

SUMMARY of Incumbents' Powers of acquiring by Exchange.

Note.—All these powers are fully set forth before, under the title “*Powers of Exchange.*”

^a See also at 28 & 29 Vict. c. 169.

SUMMARY of Incumbents' Powers of acquiring by Benefaction.

1. Lands or tithes may be annexed to a benefice.
2. Lands, tenements, rents, tithes, &c., may be accepted by an incumbent.
3. Lands, tithes, rent-charges, &c., may be annexed to a benefice.
4. Waste lands may be acquired.
5. Lands or tenements, goods or chattels, may be given to an incumbent.
6. Land in mortmain may be annexed to a benefice.
7. Land belonging to the Crown may be granted to an incumbent.
8. Waste lands may be granted to an incumbent.
9. House, &c., may be granted to an incumbent.
10. House, &c., or land, may be annexed to a benefice by means of the Commissioners for Building New Churches (now the Ecclesiastical Commissioners).
11. Materials for building a house, &c., may be granted by means of the said commissioners.
12. Messuages, lands, &c., may be annexed to a benefice by means of the said commissioners.
13. Copyhold lands, &c., may be annexed to a benefice.
14. Land may be acquired in certain cases from the said commissioners.
15. Lands and tenements, goods and chattels, may be granted to an incumbent through the governors of Queen Anne's Bounty.
16. Houses and lands may be conveyed to the Ecclesiastical Commissioners for a house of residence or for a site for a house.

under the act 17 Car. 2, c. 3 (repealed by 1 & 2 Vict. c. 106, but partially revived by 6 & 7 Vict. c. 37, sect. 25).

This act (sect. 7), enables the owner of an impropriation, tithes or portion of tithes, to annex the same or any part thereof to the parsonage, vicarage, or curacy of the parish church or chapel where the same lie or arise. Power to an impropriator, &c., to annex tithes to a benefice.

(2.) LANDS, TENEMENTS, RENTS, TITHES, or other hereditaments may, under the same act, be accepted by the incumbent of any parsonage or vicarage with cure below the value of 100*l.* per annum. 17 Car. 2, c. 3, sect. 8. Lands, &c., may be annexed.

(3.) LANDS, TITHES, RENTS, &c., may be settled for the benefit of incumbents under the (Augmentation) act 1 & 2 Wm. 4, c. 45. 1 & 2 Wm. 4, c. 45.

[See the summary of the provisions of that act.]

(4.) WASTE OR COMMON LANDS of a manor belonging to bishops, &c., may be acquired under the act 17 Geo. 3, c. 53, sect. 21. 17 Geo. 3, c. 53, sect. 21.

By this section power is given to archbishops and bishops, and to all ecclesiastical corporations, sole or aggregate, being lords of manors within which there may be any waste or common lands, parcel of the demesnes of such manors convenient for the purpose, to grant in perpetuity a part of such waste or common land as a convenience for any house and buildings belonging to a living having no glebe lying near or convenient to the same, or for a house and buildings to be purchased under the provisions of the act. But the act does not express to whom the grant is to be made, nor is power given to the incumbent to accept any such grant. Provisions of act as to grant. No direction as to the person to whom grant to be made, and no power given to incumbent to accept.

(5.) LANDS OR TENEMENTS, goods or chattels, may be acquired by incumbents under the act 43 Geo. 3, c. 108. 43 Geo. 3, c. 108.

By this act every person having in his own right any estate or interest in possession, reversion, or contingency Provisions of act for granting lands, &c.

of or in any lands or tenements, or of any property in goods or chattels, may by deed enrolled under the statute 27 Henry 8, c. 16, or by will (the deed or will to be executed at least three months before his decease), give to any person or persons, bodies politic or corporate, their heirs and successors, lands not exceeding five acres, or goods and chattels not exceeding in value £500, for or towards the erecting, rebuilding, repairing, purchasing, or providing of a mansion house for the residence of the minister officiating, or to officiate, in any church or chapel where the liturgy and rites of the United Church of England and Ireland are or shall be used, or of any outbuildings, offices, or glebe for the same, and to be for those purposes applied according to the will of such benefactor, in and by such deed or will expressed, the consent of the ordinary being first obtained; and in default of such direction, in such manner as shall be directed by the patron and ordinary, with the consent of the incumbent. And power is thereby given to such person or persons, bodies politic or corporate, to purchase and accept the lands or tenements, goods or chattels, so given.

Limitation
of power
to make
grants.

No person is allowed to make more than one such gift; and where the gift shall exceed five acres in land, or the value of £500 in goods and chattels, it is good to that extent only.

No glebe containing upwards of fifty acres is allowed to be augmented with more than one acre.

43 Geo. 3,
c. 108,
sect. 4.

(6.) LAND held in mortmain, to the extent of one acre, may be acquired either as an addition to a house of residence, or for a site for such house, under the act 43 Geo. 3, c. 108.

The land must, in this case, be conveyed by a deed duly enrolled as above.

51 Geo. 3,
c. 115.

(7.) LAND to the extent of five acres belonging to the Crown may be acquired as a gift for the purposes mentioned in the act 43 Geo. 3, c. 108.

(8.) WASTE LANDS to the same extent may be acquired under the 2nd section of the act 51 Geo. 3, c. 115.

This section enables all persons, and bodies politic and corporate, by deed enrolled in Chancery, to grant to the incumbent of a parish church, or to the curate or minister of any chapel, and his successors, any lands not exceeding in the whole five statute acres, parcel of the waste of any manor of which they may be seised in fee, and lying within the parish or extra-parochial district of the church or chapel, for the benefit of the incumbent or minister whereof the grant is made, for a glebe for such incumbent or minister to erect a mansion house or other buildings thereon, or to make other conveniences for his residence.

(9.) A HOUSE with outbuildings and appurtenances may be acquired as a gift under the act 55 Geo. 3, c. 147.

The 5th section of this act provides that in cases where there is no existing parsonage or glebe house on a benefice, or where the existing parsonage or glebe house, or the outbuildings thereof, are inconvenient, or too small, or incommodiously situate, owners in fee simple, and corporations sole and aggregate, may, with the consent of the incumbent, patron, and bishop, give, grant, and convey to the incumbent of such benefice, who is also enabled to accept the same, any messuage, outbuildings, yard, garden, orchard, and croft, or any of them, with their appurtenances, or any right of way or other easement, whether lying within the local limits of such benefice, or not, but so as that the same be conveniently situate for actual residence or occupation by the incumbent; and which premises it is provided shall for ever, from and after the conveyance thereof, become annexed to and be deemed the parsonage or glebe house and premises of such benefice, curacy, or chapelry; and after any such grant and annexation, power is given to the incumbent, with the consent of the patron and bishop, to take down and remove any parsonage or

51 Geo. 3,
c. 115,
sect. 2.

Provisions
of act as to
grant.

55 Geo. 3,
c. 147,
sect. 5.

Power to
grant.

glebe house, and outbuildings, which before such annexation belonged to the benefice, unless they can be better applied to the permanent advantage of the living; and to apply the materials, or the produce of them, towards some lasting improvement of the living.

58 Geo. 3, c. 45,
ss. 33, 34. (10.) A HOUSE, garden, and appurtenances, or land

(not exceeding, in either case, ten acres), may be acquired through the medium of the said commissioners for the residence of the incumbent of a *new church*, that is, a church built under the provisions of the Church Building Acts, or for a site for a house, from private owners, from the Crown, and from bodies politic, corporate, or collegiate, and corporations aggregate and sole.

59 Geo. 3, c. 134,
s. 20. (11.) MATERIALS, such as stone, slate, or timber, for building a house of residence for an incumbent of a new church may be granted by the same parties.

Grant of building materials.
3 Geo. 4, c. 72,
s. 1. (12.) MESSUAGES, buildings, lands, &c., may be acquired through the medium of the said commissioners from the Crown, from public departments, and from bodies politic, corporate, and collegiate, and corporations aggregate and sole, and from public institutions, to be used for residences for ecclesiastical persons.

Messuages &c., may be granted by the Crown, &c.
55 Geo. 3, c. 147,
s. 4. (13.) COPYHOLD LANDS and buildings held of a manor belonging to a benefice may, with consent of patron and bishop, be annexed by the incumbent to his benefice as glebe, whether they are within the limits of the benefice or not.

Copyholds in certain cases may be annexed to a benefice.
3 & 4 Vict., c. 60, s. 19. (14.) THE unapplied portion of land conveyed to the said commissioners for the purposes of their acts, may be applied by the commissioners as glebe for the incumbent of the parish. 3 & 4 Vict. c. 60, sect. 19.

2 & 3 Anne, c. 11.
43 Geo. 3, c. 107. (15.) LANDS, TENEMENTS, and hereditaments, goods and chattels, may be acquired through the medium of Queen Anne's Bounty, under the act 2 & 3 Anne, c. 11 (confirmed by the act 43 Geo. 3, c. 107).

Provisions of acts. By virtue of these acts all persons, with the exception

of infants, persons of non-sane memory, and married women without their husbands, are enabled by deed enrolled according to the statute of Henry 8 (or now, as to real estates, according to the act 1 & 2 Vict. c. 20), ^{1 & 2 Vict. c. 20.} or by will, to grant to the governors of Queen Anne's Bounty all their estate, interest, or property in any lands, tenements, and hereditaments, goods and chattels, which they may have in their own right, for or towards the augmentation of the maintenance of ministers officiating in churches or chapels where the liturgy and rites of the Church of England are observed.

The provisions of the above act of 2 & 3 Anne, c. 11, ^{45 Geo. 3, c. 84.} were enlarged by the 45 Geo. 3, c. 84, sect. 3, whereby ^{Provisions of the former act} money, goods, chattels, and other personal effects may be given to the governors without a deed, or may be extended. bequeathed to them by a will executed according to law.

In consequence of the governors of Queen Anne's ^{Governors not restricted by Mortmain Acts.} Bounty being thus wholly exempted from the restrictions of the Mortmain Acts, real or personal estate to any amount may be given to them for the general purposes of the corporation, or for the augmentation of particular benefices not having a settled competent provision.

From the provisions above set forth it will be seen ^{Observation as to relaxation in certain cases of Mortmain Acts.} that the Mortmain Acts are also relaxed to a certain extent as regards the said commissioners, and the Church Building Acts contain various provisions authorizing the endowment of new churches and chapels with real and personal estate.

The act 3 & 4 Vict. c. 60, however, provides that ^{3 & 4 Vict. c. 60, ss. 2, 3, 17.} the exemption from the provisions of the Mortmain Acts shall not apply so as to authorize the endowment of any such churches or chapels under the Church Building Acts to an extent beyond 300*l.* per annum clear. ^{Mortmain Acts, how limited.}

But the Ecclesiastical Commissioners for England are ^{6 & 7 Vict. c. 37.} by the act 6 & 7 Vict. c. 37, exempted from the pro- ^{Exemption}

of Ecclesi-
astical
Commis-
sioners
from the
restric-
tions of the
Mortmain
Acts.

visions of the Mortmain Acts to the same extent as the governors of Queen Anne's Bounty for the purpose of the endowment of ministers of districts created under that act, and the providing of churches or chapels for such districts; all and every person or persons or body corporate being thereby enabled to give to the commissioners any real or personal estate, by deed enrolled in the case of real estate, and without deed in the case of personalty, or by will executed according to law.

19 & 20
Vict. c.
104, sect.
27.

(16.) HOUSES AND LANDS may be conveyed to the Ecclesiastical Commissioners for a house of residence or for a site for the use of the incumbent of any church or chapel.

*AS to BUILDING and repairing Houses of Residence,
Chancels, &c.*

[See Title "*Powers of Mortgage by Incumbent*," p. 104⁹.]

THE terms of re-payment of such mortgage-money, with interest, are as follows :—

Terms of
re-pay-
ment of
the money
to be
borrowed.

The incumbent is, at the end of the first and each succeeding year during the existence of the mortgage term (such term to be computed from the day of the date of the mortgage), to pay to the mortgagee the yearly interest on the money borrowed, or on so much thereof as shall from time to time remain unpaid.

He is not required, during the first year, to repay any portion of the principal; but at the end of the second and each succeeding year he is to pay one thirtieth part of the principal sum borrowed, until the whole thereof shall be repaid.

Not to pay
any instal-
ment for
the first
year.

The act 17 Geo. 3, c. 53, authorizes the governors of Queen Anne's Bounty to lend any sum not exceeding £100 in respect of benefices under £50 per annum, free of interest; and as to benefices above £50, it authorizes them to lend any sum to the extent authorized by the act to be borrowed.

Governors
of Q. A. B.
may lend.

It also gives power to colleges and halls within the Universities of Oxford and Cambridge, and to other corporate bodies, to lend, interest free, to benefices in their patronage, any moneys of which they have the power of disposing.

Colleges,
&c., may
lend
moneys to
livings in
their
patronage.

The act 1 & 2 Vict. c. 23, sect. 9, authorizes the ap-

Moneys
arising

⁹ The power to borrow has, by act 3 & 4 Vict. c. 59, been since extended to bishops and deans and canons, for the purpose of their building, enlarging, or improving their houses of residence; after a loan is agreed to be advanced to a bishop, dean, or canon, application is to be made to the Ecclesiastical Commissioners on the subject. The governors of Queen Anne's Bounty can lend for this purpose.

from sale of residence-house, may be applied in the erection of a suitable house and offices. Application of appropriated money for building purposes.

plication of moneys arising by a sale, of the residence-house and premises belonging to a living, in or towards the erection of a house and offices suitable for the residence of the incumbent, and approved of by the ordinary and patron.

Money appropriated to a living remaining in the hands of the governors of Queen Anne's Bounty may by the act 43 Geo. 3, c. 107, sect. 3, be applied by the governors in the building or rebuilding of a house of residence, and other proper erections within the parish, convenient and suitable for the residence of the minister thereof.

[See title "*Appropriated Money*."].

Summary of provisions 1 & 2 Vict. c. 106, as to mortgages.

By the 62nd and twelve following sections of the act 1 & 2 Vict. c. 106, provision is made for the building of fit houses of residence for livings upon or at any time after the avoidance thereof after the passing of the act. The following is a summary of the provisions of such sections :—

Upon or after avoidance of a living, the bishop to issue commission of inquiry.

The bishop is authorized and required, upon or at any time after the avoidance of a benefice, to issue a commission to four beneficed clergymen, directing them to inquire whether there is a fit house of residence, and what are the annual profits of the benefice; and if the clear annual profits exceed £100, whether a fit house of residence can be conveniently procured on the glebe of the benefice, or otherwise: And if the commissioners shall report that there is no fit house of residence, and that the clear annual profits of the living exceed £100, and that a fit house of residence can be conveniently procured on the glebe, or on any land which can be conveniently procured for the site of such house, the bishop is required to procure a surveyor's certificate containing a statement of the condition of the buildings [if any], and of the value of the timber and other materials [if any], fit to be employed in building or repairing, or to be sold, and a plan and estimate of the

If no fit house of residence, and annual value of the living above £100, bishop to procure plan and estimate, and raise amount of estimate by a mortgage of

of the benefice, or otherwise: And if the commissioners shall report that there is no fit house of residence, and that the clear annual profits of the living exceed £100, and that a fit house of residence can be conveniently procured on the glebe, or on any land which can be conveniently procured for the site of such house, the bishop is required to procure a surveyor's certificate containing a statement of the condition of the buildings [if any], and of the value of the timber and other materials [if any], fit to be employed in building or repairing, or to be sold, and a plan and estimate of the

work proper to be done for building or repairing such house of residence, with all necessary and convenient offices; and thereupon, by a mortgage of the profits of the living, to raise the amount of the estimate, not exceeding four years' net income.—[*The form of the mortgage-deed is contained in the second schedule to the act; and such mortgage is made binding upon the incumbent and his successors.*]

The bishop is required to transmit to the patron and incumbent [*if any*] copies of the commissioners' report, and of the plan, estimate, and surveyor's certificate, two calendar months before making the mortgage; and if they shall object to the proposed site, or the plan, or the amount proposed to be raised, and shall deliver such objections in writing to the bishop within such two calendar months, the bishop has the power of altering or modifying the plan as he may think fit.

And if, upon receiving the commissioners' report, the bishop shall think that it is not expedient to take any measures for providing a fit house of residence, he is to make a special report of the grounds of his opinion to the Queen in council, in his next annual return.

The money to be raised by mortgage is to be paid to a nominee to be appointed by the bishop; and the act contains directions for the application of such money, similar in all respects to those in Gilbert's Act; with the exception, that in all cases where, under the act, the approval of the bishop, patron, and incumbent is required, that of the bishop alone is by this act required.

The terms of repayment of the mortgage-money and interest are similar to those specified in the act 1 & 2 Vict. c. 23, viz., the interest to be paid yearly, and no payment of principal to be made during the first year; but in every subsequent year, one thirtieth part of the principal sum borrowed is to be paid, until the whole shall be discharged.

the living to the extent of 4 years' income.

Bishop to transmit to patron and incumbent copies of commissioners' report, &c., before making the mortgage.

Bishop to state to the Queen in council his reasons for not providing a fit house of residence in any case.

Money to be paid to a nominee.

Terms of re-payment of money borrowed.

Application of moneys received for dilapidations. All moneys received for dilapidations, and not expended in repairs prior to the mortgage, are to be applied in part of the payment under the estimate; and all such moneys to be received after the mortgage are to be applied towards payment of the principal; or, if all the mortgage money shall be paid off, in additional buildings and improvements.

[See the act 28 & 29 Vict. c. 69, extending the former acts of 17 Geo. 3, c. 53; 21 Geo. 3, c. 66. See also 1 & 2 Vict. c. 23, as set forth in page lxxii.]

The governors of Q. A. B. are disposed to lend moneys for the purpose of building, &c. Reference to the governors' solicitors. The Governors of Queen Anne's Bounty have for many years been in the habit of advancing sums of money for the purpose of the several acts enabling them; and they are disposed for the present to continue this accommodation.

The practice of the governors as to loans, and all needful information, may be obtained on application to their solicitors, Messrs. Burder and Dunning, No. 27, Parliament Street, Westminster, S.W., to whom also all applications to the governors for loans of money on mortgage should be made.

INSTRUCTIONS¹ for the Exercise of the Power given by the Acts 1 & 2 Vict. c. 23, and 1 & 2 Vict. c. 29, for the Sale of the House of Residence and Appurtenances belonging to a Living, and any Land contiguous thereto not exceeding 12 acres.

1. It will be proper, in the first place, to submit to the ordinary and patron of the living a statement of what is proposed to be done; and, should the measure appear to them desirable and proper to be proceeded with, to procure their written consent to the employment of a surveyor to act in the business.

Statement to be submitted to ordinary and patron.

FORM of Appointment of Surveyor.

WE, whose names are hereunto subscribed, being the ordinary, patron, and incumbent of the rectory of —, in the county of — and diocese of —, do hereby signify our consent to the employment of J. H., of —, surveyor, to survey and value the residence-house and appurtenances belonging to the said rectory of —, with reference to the sale intended to be made of such residence-house and appurtenances; and to make a particular report in writing, as to the propriety and expediency of such proposed sale.

Appointment of surveyor.

Witness our hands, this — day of —, 18—.

[Signatures.]

2. To address to the ordinary a memorial, stating with clearness and precision all the facts of the case, and the circumstances which render the proposed sale desirable.

Memorial to ordinary.

¹ These instructions are also applicable, *mutatis mutandis*, to sales under the act 1 & 2 Vict. c. 106, and to the sale of old buildings under the act 2 & 3 Vict. c. 49. As to the disposal of the old house otherwise than by sale, see page 149.

Form of
memorial.

FORM of Memorial.

To the Right Reverend —, Lord Bishop
of —.

The Memorial of the Reverend A. B., Rector of
the parish of —, in the county of — and
diocese of —.

SHOWETH,

That the residence-house belonging to the said benefice is in a most dilapidated state, and has been habitable only as a cottage for many years past [*or state the particular circumstances which render the sale desirable.*]

That your memorialist is advised that the house cannot be repaired and converted into a residence suitable for the occupation of the incumbent of the said benefice.

That your memorialist is desirous of selling and disposing of the said house, with the garden and appurtenances, and a close of land adjoining, containing together by admeasurement — acres, under the provisions of an act passed in the 1st and 2nd years of the reign of her present Majesty, c. 23, intituled "An act to amend the law for providing fit houses for the beneficed clergy," and of an act passed in the 1st and 2nd years of her said Majesty, c. 29, to amend the said act.

That in order to enable your Lordship the better to judge of the propriety of the proposed sale, your memorialist proposes the Reverend C. D., rector of —, [*include the rural dean, if any,*] the Reverend E. F., rector of —, and the Reverend G. H., rector of —, all in the county of —, [*if the fact is so,*] and in your Lordship's diocese; and J. K., esquire, of —, L. M., esquire, of —, and N. O., esquire, of —, as proper persons to whom your Lordship may direct a commission, requesting them to inspect and examine the property so proposed to be sold, with the annexed map and

particulars before them, and to report their opinion respecting the same.

Your memorialist therefore prays that your Lordship will be pleased to take the above statement of facts into your consideration, and to issue a commission for the purpose aforesaid, authorizing the said persons, or any others whom you may appoint, to act in the premises.

(Signed) A. B.

[Add place of residence, and post town and date.]

3. This memorial should be accompanied by a map Plan and particular of the property. and particular of the property to be sold, showing the situation, and giving an accurate description of it, and by a declaration before a magistrate by the surveyor, in verification of the map and particular.

The following are forms of the particular and declaration which would be proper under the circumstances set forth in the above form of memorial.

A particular of the rectory-house and premises belonging to the rectory of —, in the county of — and diocese of —, as delineated in the plan hereto annexed marked A. Form of particular.

An ancient messuage, built with brick, timber, and tiles, in a state of dilapidation, &c., &c., situate in a piece of garden-ground, &c., &c., with the close of land adjoining, and which premises, including the site of the buildings, contain by admeasurement — acres.

[Here subjoin a valuation, which should state the tenure, the yearly value, and the outgoings, and the number of years' purchase for the sale of the fee, distinguishing, if necessary, the value of the buildings, the land, and the timber.]

(To be signed by J. H., and dated.)

On the particular and also on the map the following form of exhibit should be written and signed by the magistrate.

Exhibit to be written and signed on particular and map.

Form of
exhibit.

"This is the particular [or map] referred to in the annexed declaration."

L. M.

Form of
surveyor's
declara-
tion.

I, J. H., of —, surveyor, do solemnly and sincerely declare, that I have duly surveyed the rectory-house of the parish of —, in the county of —, and the buildings and land delineated and described in the annexed map, marked A, and that I have in the annexed particular, marked B, truly described the present state and condition and value of the same, and that the said map, particular, and valuation are in my judgment severally correct and true. And I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the provisions of an act made and passed in the 5th and 6th years of the reign of his late Majesty King William the Fourth, intituled "An Act to repeal an act of the present session of parliament, intituled 'An Act for the more effectual abolition of oaths and affirmations taken and made in various departments of the state, and to substitute declarations in lieu thereof, and for the more entire suppression of voluntary and extra-judicial oaths and affirmations, and to make other provisions for the abolition of unnecessary oaths.'"

(Signed) J. H.

Declared at —, in the county
of —, the — day of —,
18—, before me,

L. M., one of her Majesty's justices of the
peace for the county of —.

Ordinary
will issue
commis-
sion of
inquiry.

Upon receipt of these documents the ordinary will, if the proposed measure should appear *primâ facie* proper to be carried into execution, issue a commission of inquiry, addressed to the persons named for that purpose in the memorial, or to such other persons resident in the neighbourhood as he may think proper.

The following is proposed as a form of the return to be made by the commissioners [*to be varied according to circumstances*] :—

To the Right Reverend —, Lord Bishop of —.

WE, the undersigned, being a majority of the commissioners within named, having, in pursuance of the within commission, actually examined and inspected the hereditaments set forth and described in the memorial of the Reverend A. B., and the map, particular, and valuation severally annexed to the within commission, and having made all necessary inquiries, and well considered all the circumstances with reference to the sale proposed to be made, do hereby certify your Lordship that in our judgment such sale will be of material advantage to the living of —, and is in every respect fit and proper to be made.

In witness whereof we have hereunto subscribed our names, this — day —, 18—.

On receipt of the commissioners' return, the bishop will, if satisfied in regard to the propriety of the measure, issue his fiat for the sale and conveyance of the old parsonage premises, the purchase-money for which must, in pursuance of the directions of the 8th section of the act, on the sale being completed, be paid by the purchaser to the treasurer of the governors of Queen Anne's Bounty, who will give a receipt for the same.

The above forms will serve, with very little alteration, for the case of a sale, under the act 2 & 3 Vict. c. 49, sect. 17, of old buildings, &c., other than the house of residence.

Whenever money arising by the sale of a residence-house, &c., or of old buildings, is paid to the governors of Queen Anne's Bounty, such money is forthwith invested by them in the funds—to remain till money is wanted for the purpose of providing another house.

Applica-
tion of di-
vidends of
stock.

The dividends of an investment proceeding from the sale of a house of residence are not payable to the incumbent, but are, under the 16th sect. of the act 2 & 3 Vict. c. 49, to be added by way of accumulation to the principal. If the entire fund shall not be applied by the governors in purchasing or building a house, the surplus becomes appropriated money, and the dividends of it will be payable to the incumbent.

As to pur-
chase of
house, &c.

An incumbent desirous of purchasing or building a house of residence, &c., with money or bank annuities belonging to his benefice, held by the governors of Queen Anne's Bounty, should apply for instructions as to the mode of proceeding, to their secretary.

Produce of
sale of old
buildings.

The money arising from the sale of old buildings becomes appropriated money; and as to the application of it, see title "Appropriated Money."

The con-
veyance of
the pur-
chased
premises
to be made
to the in-
cumbent.

Note.—In consequence of the enactment by the 14th section of the act 1 & 2 Vict. c. 23, That the several powers and provisions of the act 7 Geo. 4, c. 66, shall apply to the case of a purchase effected under the former act, the conveyance of the premises purchased will be made to the incumbent; and when the premises so proposed to be purchased shall belong to any person having a less estate or interest therein than in fee simple, or by any corporation aggregate or sole, or person under legal disability, the map or plan and valuation thereof must still be *verified on oath*, before a justice of the peace—and not by declaration; and must be annexed to, and preserved with the conveyance.

*AS to the DISPOSAL of the Old Residence-House
after a new House and Offices shall have been built,
or otherwise acquired.*

THE act 55 Geo. 3, c. 147, sect. 5,—after making provision for the grant to an incumbent, by way of benefaction, of any messuage, buildings, and premises convenient for his residence and occupation, and providing that such messuage and premises shall upon the conveyance thereof become annexed to, and be deemed the parsonage-house and premises of the living,—enacts, That from and after such grant and annexation, it shall be lawful for the incumbent (with the consent in writing, under the hands and seals of the patron and bishop, and registered in the registry of the diocese), to take down and remove any parsonage or glebe-house, and outbuildings, or any part thereof, which before such annexation belonged to the living (if the same, or any part thereof, cannot be better applied to the permanent advantage of the living), and with the like consent apply the materials, or the produce thereof, if sold, towards some lasting improvement of the living.

By section 6 of the act 1 & 2 Vict. c. 23, in cases where any existing house and offices belonging to any benefice shall be unfit for the residence of the incumbent thereof, and shall be incapable of being enlarged or repaired so as to be rendered fit for his residence, and it shall be so certified to the bishop of the diocese wherein such benefice shall be situate by some competent surveyor or architect, and that it will be advantageous to the benefice that such house and offices should be suffered to remain, the incumbent is enabled, with the consent of the bishop, to allow such house and offices to remain standing as a dwelling-house and offices, or to convert the same into farming buildings,

Old house of residence may, after the grant and annexation of a new house, be taken down.

Old house of residence may be suffered to remain standing.

for the use and occupation of the occupier or occupiers of the glebe-lands belonging to such benefice ; and it is enacted, That from and after the complete erection, or the purchase of a new house and offices to the satisfaction of the bishop of the diocese, such old house and offices shall from thenceforth be used for and converted to the purposes aforesaid ; and the house and offices to be so erected or purchased shall from thenceforth, to all intents and purposes, be deemed and taken to be the residence-house of and for such benefice, without the necessity of obtaining any licence or faculty for that purpose.

AS to the LETTING of Land on Building Leases.

By the act of 5 & 6 Vict. c. 108, authority is given to ecclesiastical corporations, aggregate or sole, to demise their lands for 99 years for building purposes; but the provisions of the act will but rarely apply to incumbents of benefices, it is only considered necessary to state shortly, that in any case where land belonging to an incumbent in right of his benefice may be eligible for building purposes, he is empowered, with the consent of the Ecclesiastical Commissioners for England, and of the patron, to lease such lands for any term not exceeding 99 years at the best rent. He may also in like manner lease houses belonging to him for a building term, with a view to their being repaired or rebuilt.

As the consent of the Ecclesiastical Commissioners is required, any incumbent desirous of availing himself of the powers of the act should apply, in the first instance, to the secretary to the commissioners, from whom he will receive all necessary information and assistance.

The above act is amended by act 21 & 22 Vict. c. 57; and powers of sale, exchange, &c., given to corporations aggregate or sole, of lands, mines, &c., which, under the act 5 & 6 Vict. c. 108, may be demised by them for long terms of years.

See also act 14 & 15 Vict. c. 104, sect. 6.

Glebe-land may be leased for building purposes.

Application to be made to the secretary to the Ecclesiastical Commissioners.

Amended act 21 & 22 Vict. c. 57.

*AS to the LETTING of Land belonging to a Benefice
on Farming Leases.*

Summary of the act 5 & 6 Vict. c. 27. THE following is a summary of the provisions of the act 5 & 6 Vict. c. 27, intituled "An Act for better
"enabling incumbents of ecclesiastical benefices to
"demise the lands belonging to their benefices on
"farming leases."

Incumbent may, with certain consents, lease land at rack rent for 14 years; and in certain cases for 20 years. This act authorizes an incumbent of a benefice, with the consent of the bishop and patron, and as to copyhold lands with the consent of the lord of the manor, to lease at rack rent any part of the glebe-lands or other lands belonging to his benefice, with or without farm buildings, for any term not exceeding 14 years; with a provision that, in certain specified cases of an unusual outlay being undertaken by a lessee, the term may be extended to 20 years.

Terms and clauses of lease. The terms on which a lease may be granted, as well as the covenants and clauses which every such lease must contain, are particularly specified in the first section.

House of residence, &c., and 10 acres not to be leased, if so much land within 5 miles of the house. There is a restriction against leasing the parsonage house or house of residence, and the offices, outbuildings, yards, gardens, orchards, and plantations thereto adjoining and appurtenant, and which may be necessary or convenient for actual occupation therewith, and so much land situated the most conveniently for actual occupation by the incumbent, as with the site of such house of residence, offices, outbuildings, yards, gardens, orchards, and plantations, shall amount to ten acres at least, if there shall be so much land within five miles of the house of residence, or if there shall be less than ten acres so situated, then the whole of such land is to be kept out of lease; but the restriction does not apply to cases where the land to be leased is at a distance of five miles

or upwards from the house of residence, or from the church, where there is no house of residence.

It is required that before any lease is granted the bishop, patron, and incumbent shall appoint a land surveyor, who is to make a map under an actual survey of the lands to be leased, and of such of the other lands as may be necessary to show the relative situations of the lands to be leased and the lands to be retained. He is also to certify that the lands proposed to be leased are proper to be leased, and that the lands proposed to be retained in hand (if such is the case) are the most convenient for actual occupation by the incumbent; and he is to make a valuation, on actual survey, of the lands proposed to be leased, and report the rent which ought to be reserved by the lease; he is also to state the course of husbandry which ought to be adopted by the tenant. And whenever special covenants are proposed in regard to the drainage, &c., of the lands, or the erection or repairing of buildings, or the making any other substantial improvement, the surveyor is to certify that they are proper covenants, and is to state the amount by which, in consequence of such covenants, the yearly rent should be diminished. His certificate is also to state, in the case of any allowance to the lessee of materials and rough timber, that he has taken that into account in estimating the rent; and he is to report upon all such other matters connected with the lease as may be required of him. Sect. 3.

Where there is in existence any plan of a parish, made under actual survey, the surveyor is allowed to make use of that plan instead of making a new one. Sect. 3.

As to what shall be evidence of the counterpart or lease having been duly executed by the lessee, which also makes the execution of the lease by the bishop and patron conclusive evidence that all the other requisitions of the act have been duly complied with, sect. 4.

Surveyor
to be
appointed.

His duties.

An exist-
ing plan
under ac-
tual sur-
vey may
be used.

Execution
of lease
and coun-
terpart.

How lease may be surrendered. As to the mode in which only a surrender of a lease granted under the act may be made, see sect. 5.

As to peculiars. As to peculiars, the powers and duties imposed by the act upon the bishop of the diocese are to be exercised in all cases, except as to peculiars belonging to an archbishop or bishop, by the bishop in whose diocese the peculiar is locally situate. Sect. 6.

As to patrons. All necessary provisions are contained in regard to patrons and other consenting parties to a lease. Sects. 7, 8, 9, 10, 11.

As to consenting parties. Provision is made for the case of a person sustaining more than one of the characters of bishop, patron, lord of the manor, and incumbent. Sect. 12.

As to land held in trust for an incumbent. Lands held in trust for an incumbent may be leased by him under the provisions of the act, as if they were legally vested in him. Sect. 13.

Documents to be deposited in the registry. The counterpart, or an attested copy of the lease and all the preliminary documents, are to be deposited in the registry of the diocese or in the registry of the archbishop or bishop's peculiars, as the case may be, within six months after the date. Sect. 14.

INSTRUCTIONS for the Exercise of the Powers of the Act.

Instructions for the exercise of the powers of the act. The following instructions are proposed for the guidance of incumbents desirous of leasing their glebe-lands under the provisions of the above act. It is, however, recommended that as a solicitor must be employed to prepare the lease, the preparation of all the preliminary documents should be likewise entrusted to him, as the greatest care and nicety are required in order to comply strictly with the various requisitions of the act.

Case to which the instructions particularly apply. The forms proposed are applicable to the ordinary case of an incumbent possessed of lands within the distance of five miles from his house of residence, leasing such lands, with the exception of ten acres the most convenient for occupation.

The first step is the appointment of a surveyor by writing under the hands of the bishop, patron, and incumbent.

The surveyor so appointed will then (unless there is in existence a map or plan made under an actual survey of the parish, or of such part thereof as shall include the lands proposed to be leased, in which case a copy of or an extract from such map will be sufficient) make a map, under an actual survey, of the lands to be leased, and of the other lands belonging to the benefice, or such part of the said other lands as will sufficiently show the relative positions, or local situations and quantities, of the lands to be leased, and of the lands, if any, intended to be reserved.

The surveyor will also make a valuation, on actual survey, of the lands and hereditaments proposed to be leased, and will also make a certificate and report as to all the matters which by the 3rd section he is required to certify and report upon.

The map, certificate, valuation, and report so made must be respectively signed by the surveyor, and verified by his declaration before a justice of the peace. And they must then all be sent, with the draft of the intended lease, to the bishop's secretary.

Immediately on the due execution of the lease, the counterpart, or an attested copy of such lease if there shall be only one part, and the appointment of surveyor, map, certificate, valuation, and report, should be deposited in the registry of the diocese, or of the peculiar jurisdiction, as the case may be; and a certificate of such deposit be given by the registrar.

1. FORM of Appointment of Surveyor.

We, the Right Reverend —, Lord Bishop of —, the bishop of the diocese within which the rectory of X., in the county of —, is situate, A. B., of —, esquire, the patron of the said rectory, and C. D., clerk,

Surveyor
to be ap-
pointed.

Surveyor
to make a
map under
actual sur-
vey (un-
less an au-
thentic
map in ex-
istence).

Surveyor
to make
valuation,
certificate,
and report.

Docu-
ments to
be signed
by sur-
veyor, and
verified by
declara-
tion.

Docu-
ments to
be finally
deposited
in the
registry.

the rector of the said rectory, do by this writing appoint G. H., of —, in the county of —, land surveyor, to survey, value, and report upon certain lands and buildings, for the purpose of a lease intended to be granted by me, the said C. D., under the provisions of the act for better enabling incumbents of ecclesiastical benefices to demise the lands belonging to their benefices on farming leases, and to do and perform all such other matters and things connected with such intended lease, as a surveyor is required to do and perform by the said act. Given under the hands of us, the said lord bishop of —, A. B., and C. D., the — day of —, 18—.

[Signatures.]

2. FORM of Surveyor's Declaration to be made before
a Justice of the Peace.

Form of
surveyor's
declara-
tion.

I, G. H., of —, in the county of —, land surveyor, do hereby solemnly and sincerely declare that I did, lately, actually survey and value the several closes, pieces or parcels of land and buildings specified and described in the annexed paper writing marked B., and also delineated in the annexed map or plan marked A., and therein distinguished by a *pink colour*, for the purpose of a lease intended to be granted thereof, under the provisions of the act for the better enabling incumbents of ecclesiastical benefices to demise the lands belonging to their benefices on farming leases; and that I did also survey the close or parcel of land marked on the said map, and therein coloured *blue*, and referred to in the said paper writing as not intended to be included in such lease; and I further solemnly and sincerely declare, that the said map or plan was made under an actual survey by me of the said lands and buildings therein delineated and described [or, *as the case may be*, was under my direction and superintendence, copied from

the map made under an actual survey of the parish of —, on the enclosure of the commons and waste lands of that parish, and annexed to the enclosure award in the possession of the parish officers of the said parish of —²]; and that the said map or plan, and also the certificate, valuation, and report contained in the said paper writing marked B., are in my judgment severally correct and true: and I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the provisions of the act made and passed in the session of Parliament held in the 5th and 6th years of the reign of his late Majesty King William the Fourth, intituled “An Act to repeal an act of the present session of parliament, intituled ‘An act for the more effectual “abolition of oaths and affirmations taken and made in “various departments of the state, and to substitute “declarations in lieu thereof,’ and for the more entire “suppression of voluntary and extra-judicial oaths and “affidavits, and to make other provisions for the abolition of unnecessary oaths.”

(Signed) G. H.

Declared at —, the — day of
—, 18—, before me,

A. B.,

Justice of the peace for the
county of —.

3. CERTIFICATE, Valuation, and Report of Surveyor.

Certificate, valuation, and report of lands and build-
ings belonging to the rectory of X., in the county of —
— and diocese of —, proposed to be demised by
the rector of the said rectory under the provisions of
the act 5 Vict. sess. 2, c. 27, to Mr. M. N. of —, for
a term of 14 years from —, 18—.

² If the plan was made in respect of the commutation of tithes, state the fact.

The lands are particularized in the following Schedule.

No. on plan annexed.	Names.	State of cultivation.	Quantity.

The buildings consist of [*here give a particular of the buildings*].

The above premises are delineated in the map or plan marked with the letter A. hereunto annexed, which is a map or plan, under an actual survey by me, of the said premises [*or, as the case may be, is an extract from the map made under an actual survey of the parish of X. on the enclosure of the commons and waste lands of that parish, and annexed to the enclosure award in the possession of the parish officers of the said parish*].

Certificate.

I, the undersigned G. H., the surveyor appointed by the bishop of — and the patron and rector of X. aforesaid, under the above-mentioned act, for the purposes of the said lease, do hereby certify that the above lands and buildings are proper to be leased to a tenant under the provisions of the said act, and that the close or parcel of meadow-land containing ten acres, which, together with the parsonage-house, garden, and offices belonging to the said benefice, is described in the said map or plan hereunto annexed, being distinguished by the colour *blue*, and is not intended to be included in the said lease, is such part of the glebe-land of the said benefice as is situated the most convenient for actual occupation by the incumbent thereof.

Valuation.

Having made an actual survey of the said lands and buildings to be demised by the said lease, I estimate the yearly value thereof at the sum of £ —.

Report.

I do hereby report, that under the circumstances under which the proposed lease is to be granted, the said sum of £—— is in my judgment the best yearly rent that ought to be reserved by the said lease; and I do further report and state, that the course of husbandry which in my opinion ought to be adopted is the following [*here state clearly and concisely the course of cultivation to be pursued, and any special covenants to be contained in the lease on the part of the lessee or lessor for the purposes mentioned in the 3rd section of the act*].

(Signed) G. H.

Note.—If the lessee is to enter into any special covenants to make substantial improvements, the surveyor must state the amount by which the estimated rent, independently of the improvements, ought to be diminished, on account of the lessee entering into such covenants. See section 3.

This is the paper writing marked
B., referred to in the declaration of G. H. hereunto
annexed, made before me this
— day of —, 18—,

Justice of the peace
for the county of —.

The map or plan of the surveyor should be marked with the letter A., and should be referred to in the above form.

AS to CONVEYANCES of Sites for Schools.

4 & 5 Vict. c. 38, s. 2, &c. THE acts relating to this subject are 4 & 5 Vict. c. 38; 7 & 8 Vict. c. 37; 12 & 13 Vict. c. 49; and 14 & 15 Vict. c. 24.

By the first of these acts power is given to persons seised in fee, in tail, or for life, to convey by way of gift, sale, or exchange, land to the extent of one acre, as a site for a school and residence for the master or mistress.

4 & 5 Vict. c. 38, s. 2. Any number of sites may be conveyed by the same person; but the aggregate quantity of land conveyed by the same person in any parish or ecclesiastical district must not exceed one acre.

Ibid. In the case of a grant by a tenant for life, the consent of the person entitled next in remainder is requisite.

Ibid. The gratuitous conveyance, by a lord of a manor, of waste or commonable land bars the rights of all persons in the land.

Ibid. ss. 3, 4. Land belonging to the Queen in right of the duchy of Lancaster, or forming part of the duchy of Cornwall, may be granted and conveyed to the same extent.

Ibid. s. 5. A person beneficially entitled may convey without the concurrence of his trustee; and a married woman, with the concurrence of her husband, may convey without acknowledging the deed, and the guardians and committees of infants and lunatics may convey, for them, by way of sale.

Ibid. s. 6. Corporations ecclesiastical or lay, sole or aggregate, and parties holding land for ecclesiastical, parochial, charitable, or other purposes, may convey land to the same extent.

Ibid. No ecclesiastical corporation sole below the dignity of a bishop to convey without the concurrence of the

bishop of the diocese, nor without a certificate from *Ibid.* s. 13. three beneficed clergymen indorsed on the deed of conveyance as to the extent of the land; and in case of a conveyance by an incumbent of part of his glebe to himself and the churchwardens, the consent of the patron is required in addition, and certain specified consents are required to conveyances by all the other parties enumerated in the 6th section. 7 & 8 Vict. c. 37, s. 5.

Conveyances may be made to any corporation sole or aggregate, or to several corporations sole, or to trustees, or to the minister and churchwardens as a corporation; but in case of a conveyance by an ecclesiastical corporation sole below the dignity of a bishop to trustees other than the minister and churchwardens, such trustees must be nominated by the bishop. In the case of a school for an ecclesiastical district not being a parish, a conveyance to the minister and churchwardens of the district is sufficient. 4 & 5 Vict. c. 38, s. 7.

Schools vested in trustees not having a corporate character, may be conveyed to the minister and churchwardens of the parish or district as a corporation. 7 & 8 Vict. c. 37, s. 4.

The act gives the form of conveyance to be used, and the form of certificate of quantity in the case of conveyance by a corporation sole. 4 & 5 Vict. c. 38, ss. 10—13.

The conveyance of copyhold land by a deed in which lord and tenant concur, is sufficient without surrender in the lord's court. 12 & 13 Vict. c. 49, s. 6.

Provision is made for the apportionment of rent and renewal fine where the land conveyed is part of property comprised in a lease. *Ibid.* ss. 1, 2.

If the purchase-money on a sale by an ecclesiastical corporation sole is under £20, it may be retained by the party conveying. When above £20, it is to be applied for the benefit of the corporation, according to the direction of the bishop. 4 & 5 Vict. c. 38, s. 11.

A power is given for the sale or exchange of sites which may have been acquired under the act; the *Ibid.* s. 14.

money to be received on sale or for equality of exchange to be applied in the purchase of another site, or the improvement of the school premises; and where the site has been acquired from an ecclesiastical corporation sole, the consent of the bishop must be given to a sale or exchange, and the consent of the Secretary of State for the Home Department must be given where any portion of the parliamentary grant has been expended upon the school.

4 & 5 Vict.
c. 38, s. 15. Land conveyed under the repealed act 6 & 7 Wm. 4, c. 70, to the minister and churchwardens, is vested in those parties as a corporation.

Ibid. s. 16. Conveyances made for school purposes, but not inrolled in accordance with the provisions of the Mortmain Act, are made valid upon inrolment within twelve months from the passing of the act.

7 & 8 Vict.
c. 37, s. 3. Provision is made to prevent conveyances failing by reason of the death of the grantor within twelve months.

12 & 13
Vict. c. 49,
s. 4. Absolute owners and tenants in tail are empowered to convey land to the extent of five acres in the way of gift, sale, or exchange for the purpose of elementary schools.

Ibid. s. 5. In all cases in which absolute owners are able to convey any estate in land to trustees upon charitable uses, they are empowered to grant and convey to the corporation or corporations mentioned in those acts any quantity of land, or an estate in land of whatever extent, for the purposes of the acts; that is, as sites or endowments of elementary schools, or of schools for poor persons.

4 & 5 Vict.
c. 38, ss. 17,
18. Schoolmasters and mistresses are to hold their office at the discretion of the trustees of the school, and not for life; and provision is made for the ejectment of masters or mistresses holding possession after dismissal.

Ibid. s. 19. The commissioners for building new churches (now the Ecclesiastical Commissioners) are empowered to apply land conveyed to, but not applied by them to

the purposes of their acts, for the purpose (amongst others) of any parochial or charitable school relating to the parish.

The term "parish" is defined as a place separately maintaining its own poor, and having its own overseers of the poor and churchwardens. 4 & 5 Vict. c. 38, s. 20.

Provision is made for rendering schools which receive benefit from the parliamentary grants liable to the visits and inspection of the government inspectors. 7 & 8 Vict. c. 37, ss. 1, 2.

On land ceasing to be used for the purposes of the act, it is to revert to the original owners. Land not used to revert to original owners.

If assistance is required from the parliamentary grants, application must be made to "The Secretary, Committee of Council on Education, Privy Council Office, Downing Street," and printed forms of conveyance and management clauses will be supplied by that department. Where assistance required from Parliamentary grants.

SUMMARY

OF THE PROVISIONS OF THE

ACT OF PARLIAMENT, 1 & 2 Wm. 4, c. 45¹,

INTITULED,

AN Act to extend the provisions of an act passed in the twenty-ninth year of the reign of His Majesty King Charles the Second, intituled "An act for confirming and perpetuating augmentations made by ecclesiastical persons to small vicarages and curacies;" and for other purposes.

[This act is extended by an act 17 & 18 Vict. c. 84.

And see acts 1 & 2 Vict. c. 107, s. 14; 3 & 4 Vict. c. 113, s. 76; and 4 & 5 Vict. c. 39, s. 26.]

^a These words do not extend to incumbents of livings. See s. 19.
^b This extends to all colleges in the two universities, and to those of Eton and Winchester, s. 29.

Powers which may be exercised by any archbishop, bishop, dean, provost, dean and chapter, archdeacon, prebendary, or other ecclesiastical corporation, person, or persons^a, or the master and fellows^b of any college, or the master or guardian of any hospital.

These powers may be considered as consisting of two classes :—

CLASS I. The persons here mentioned are enabled to augment any church or chapel in their patronage², in manner following :—

¹ This summary embraces the provisions of the statute 29 Car. 2, c. 8. The whole of that statute (so far as the same remains in force) is recited in sect. 1 of the statute 1 & 2 Wm. 4, c. 45, in the Appendix. It has therefore been thought unnecessary to print the former act separately, and the reference in these pages as to powers contained in the statute 29 Car. 2, c. 8, are made to sect. 1 of the statute 1 & 2 Wm. 4, c. 45.

² If entitled only to the alternate right of presentation, it will be sufficient. Sect. 15.

N.B. Both of the above acts are set forth in the Appendix.

- (1.) By charging any lands or other hereditaments of whatever description belonging to them, with an annual rent^a, payable to the incumbent^b. Sect. 4.
- (2.)^c If the lands, &c., be subject to a lease with a reserved rent, a part of such rent may be granted to the incumbent; in which case the amount so granted is to continue to be payable after the determination of the lease^c. Sect. 6.
- (3.) If the lands, &c., at the time of the grant of the augmentation to the incumbent of a benefice be subject to a lease, not at rack-rent (as in the common case of ecclesiastical or college leases), the augmentation rent may be deferred till the expiration or surrender of the lease^d. Sect. 7. And^e in case the lease shall be afterwards surrendered for the purpose of renewal, such rent may be then deferred for any further time not exceeding twenty-one years^f from the date of the lease in existence at the time of the grant of the augmentation^g. Sect. 8.
- (4.) By annexing any such lands or other hereditaments to the church or chapel^h. Sect. 12.

^a See s. 5.
^b See forms of deeds, No. I. and No. II.

^c See form of deed, No. III.

^d See form of deed, No. IV.

^e See form of deed, No. V.

^f See form of deed, No. VII.

CLASS II. Where any of the persons above mentioned are possessed of any *rectory impropriate* or *tithes*, they are enabled to augment any church or chapel (*situate within the parish or place in which the rectory impropriate lies or the tithes arise*), although not in their patronage:—

^a The case in which this power is most likely to come into use, is where a lease has been created under the powers of a private act of Parliament. Building leases for long terms have been made by ecclesiastical persons in this way. In the case of a common ecclesiastical or college lease, the rent reserved is generally so small that it is not likely this power will be resorted to.

^c This power is applicable to the case which most commonly occurs. The provision of sect. 8. was introduced under the apprehension that the fine on the first renewal might be otherwise so much diminished as to deter parties from exercising the power.

^h Or in the cases of houses in cities and towns. forty years. See sect. 8.

^a This power was given in a limited manner by the act 29 Car. 2, c. 8. See s. 1. 1 & 2 W. 4, c. 45.
^b See s. 5.
^c See form of deed, No. I.
^d See form of deed, No. III.
^e See form of deed, No. IV.
^f See form of deed, No. VI.

- (1.) ^a By charging the rectory impropriate or tithes with an annual rent ^b, payable to the incumbent ^c. Sects. 1 and 3.
- (2.) If the rectory impropriate or tithes be subject to a lease with a reserved rent, power similar to the power Class I. (2) ^d. Sect. 6.
- (3.) If the rectory impropriate or tithes be subject to a lease not at rack-rent (as in the common case of ecclesiastical and college leases), power similar to the power Class I. (3) ^e. Sects. 7 and 8.
- (4.) By annexing all or any part of the rectory impropriate or tithes to the church or chapel ^f. Sect. 11.

Where any of the above powers are exercised by a bishop, dean, archdeacon, or prebendary, or the master or guardian of any hospital, the consent of specified persons is required; *i. e.*, in the case of a bishop, the consent of the archbishop, &c. ^g. See sect. 18.

The above powers must not be exercised so as to raise the annual value of the benefice to more than 300*l.* per annum ^h. Sect. 16.

In order to determine the antecedent value of the benefice, and also in the cases Class I. (4) and Class II. (4) the value of the premises to be annexed, a power is given of appointing valuers to determine such value for the purposes of the act ⁱ. Sect. 17.

^g See form of instrument, No. VIII.

Where, under the act, a rent becomes charged on any hereditaments, and a part of the premises is afterwards leased apart from the rest, the rent may (under proper restrictions) be apportioned so as to charge a part of the rent on the hereditaments in the lease, and the residue of the rent on the remainder of the premises. Sect. 9.

^h As to the consent of the Ecclesiastical Commissioners, see sect. 76, act 3 & 4 Vict. c. 113; sect 26, act 4 & 5 Vict. c. 39.

ⁱ Some confusion has arisen in this clause. In acting under the statute, it will be advisable, with the view of keeping on the safe side, to adopt the construction here put upon it.

Where any hereditaments are annexed to a church or chapel under the power Class I. (4) or Class II. (4), and the premises happen to be in lease at the time, the reserved rent, or (in case other hereditaments are comprised in the lease) a proportion of it, is to go with the annexation. Sect. 13. [See also 17 & 18 Vict. c. 84, s. 4.]

Where any hereditaments are annexed to a church or chapel under the above power, Class I. (4) or Class II. (4), and it happens that the premises have been customably demised with other hereditaments in one lease, provision is made against difficulties as to future leases of the last-mentioned premises, by extending the statute 39 & 40 Geo. 3, c. 41, to such cases. Sect. 14.

Powers which may be exercised by the Incumbents of Benefices^a.

(1.) Where the incumbent of a benefice is entitled to tithes arising within another parish, he is enabled to annex them to any church or chapel within the parish in which they arise, the consent of the archbishop or bishop of the diocese and of the patron of the benefice being obtained^a. Sect. 20.

(2.) A rector or vicar is enabled to augment any chapel of ease, parochial chapel, or district church or chapel situate within the limits of his benefice^b, by annexing to the same a part of the revenues of the rectory or vicarage, or by granting to the incumbent^c of such

An incumbent entitled to tithes in another parish may annex them to any church within such parish.

^a See form of deed, No. IX. Annexation to a chapel of ease, &c., of part of revenues of rectory or vicarage, or by granting an annual sum chargeable on rectory or vicarage.

^a The clause restricting the amount of an augmentation (sect. 16) does not apply to these cases.

^b These powers are, by the 14th section of the act 1 & 2 Vict. c. 107, extended for the benefit of incumbents of consolidated chapel-ries. And by the act 17 & 18 Vict. c. 84, they are still further extended so as to be applicable to the case of districts of which a portion only is within the limits of the benefice.

^c This power, it may be noticed, applies only where the chapel or church has an incumbent, as where it is a perpetual cure or other distinct benefice.

chapel or church an annual sum to be chargeable upon the rectory or vicarage; the consent of the archbishop or bishop of the diocese and of the patron of the benefice being first obtained ^a. Sect. 21.

To the last power an exception is made in the particular case (arising under the Church building acts) in which the chapel of ease is about to become the church of a distinct parish. Sect. 22.

Sects. 23, 24, 25, provide for the manner in which the consent of the patron of a benefice is to be given where the patronage is in the Crown, or belongs to the Duchy of Cornwall, or the patron is under incapacities.

Every instrument by which any power of the act shall be exercised, is required to be deposited, within two calendar months after its date, in the registry of the diocese or peculiar jurisdiction (if it be the peculiar jurisdiction of an archbishop or bishop) in which the benefice is situate (sect. 26); so that it will be necessary that there should be a deed of augmentation executed in every case, and this although the augmentation is intended to be reserved immediately by a lease.

By the act 17 & 18 Vict. c. 84, an incumbent may, with consent of bishop and patron, annex land belonging to any church within the parish in which the land is situate; and the 13th sect. of the act 1 & 2 Wm. 4, c. 45, in regard to the apportionment of rent, is made to apply to such a case.

By this act also an incumbent to whom a rent-charge may have been granted under any of the provisions of the acts 29 Car. 2, c. 8; 1 & 2 Wm. 4, c. 45; and 17 & 18 Vict. c. 84, is enabled, with consent of patron and bishop, to release any portion of the property charged.

^a See forms of deeds, Nos. X. and XI.

Exceptions.

Consent where patronage is in the Crown.

Deed of grant to be deposited within two calendar months in registry.

An incumbent may annex land belonging to any church within the parish in which the land is situate.

A portion of the property charged may be released.

F O R M S
OF
DEEDS AND OTHER INSTRUMENTS

TO BE USED IN EXERCISING THE POWERS OF THE ACT
1 & 2 Wm. 4, c. 45.

THE following Forms are intended as examples of the mode of exercising each of the powers of the Act. They may be readily altered to suit the cases to which they respectively apply.

- No. I. Form of a Deed of Augmentation made by the Grant of a Rent out of Tithes to the Incumbent of a Church within the Parish in which the Tithes arise, 1 & 2 Wm. 4, c. 45. Sects. 1 and 3.
- No. II. Form of a Deed of Augmentation made by the Grant of a Rent out of Lands to the Incumbent of a Benefice in the Patronage of the Grantors. Sect. 4.
- No. III. Form of a Deed of Augmentation made by the Grant of Part of a Rent to the Incumbent of a Benefice in the Patronage of the Grantor; the Rent having been reserved on a subsisting Lease of Lands. Sect. 6.
- No. IV. Form of a Deed of Augmentation made by the Grant of a Rent to the Incumbent of a Benefice in the Patronage of the Grantor. The Rent to be charged on Lands, and to commence after the Expiration of a subsisting Lease in the Premises; the Lease not being at Rack-rent. Sect. 7.
- No. V. Form of a Provision (to be inserted in a renewed Lease) for deferring the time from which an Augmentation (granted under Sect. 7) is to take effect in Possession. Sect. 8.
- No. VI. Form of a Deed of Augmentation made by the Annexation of Tithes to a Church situate within the Parish in which the Tithes arise. Sect. 11.
- No. VII. Form of a Deed of Augmentation made by the Annexation of Land and Tithes to a Church in the Patronage of the Person by whom the Annexation is made. Sect. 12.

No. VIII. Form of Instrument of Appointment of Valuers.
Sect. 17.

No. IX. Form of a Deed of Annexation by the Incumbent of a Benefice entitled to Tithes arising within another Parish, of such Tithes to a Chapel within the Parish in which they arise. Sect. 20.

No. X. Form of a Deed of Annexation by the Incumbent of a Rectory to a Chapel of so much of the Tithes, &c., belonging to the Rectory, as arise within a particular part of the Parish. Sect. 21.

No. XI. Form of a Deed of Grant by the Incumbent of a Vicarage to the perpetual Curate of a Chapel of an Annual Sum to be charged on the Glebe Land of the Vicar, with Powers of Distress and Entry to enforce Payment. Sect. 21.

No. I.

FORM of a Deed of Augmentation made by the Grant of a Rent out of Tithes to the Incumbent of a Church within the Parish in which the Tithes arise. 1 & 2 Wm. 4, c. 45, sects. 1 and 3.

THIS INDENTURE ¹ made the — day of —, in the year of our Lord 18—, between the master and fellows of — College in the university of —, of the one part; and the Reverend A. B., clerk, vicar of the parish church of Dale, in the county of Kent and diocese of Canterbury, of the other part: Whereas the said master and fellows are seised or entitled in fee simple of or to the rectory impropriate of Dale, and the tithes of corn and other grain, wood, and hops thereto belonging, respectively, lying and arising within the parish of Dale aforesaid: And whereas, in pursuance and exercise of the provision or authority in that behalf made or given by an act passed in the first and second

¹ In this Form the augmentation is supposed to be made by the master and fellows of a college in favour of a vicarage.

N.B. Under the circumstances here supposed, no consenting party is necessary. See sect. 18.

years of the reign of his late Majesty King William the Fourth, intituled [*here set out the title of the act 1 & 2 Wm. 4. c. 45*], the most Reverend —, Lord Archbishop of Canterbury (within whose diocese the said vicarage of the said parish of Dale is situate), upon the request of the said master and fellows, did by writing under his hand, bearing date the — day of — last (which said writing is intended to be annexed to these presents immediately after the execution hereof), appoint John Adams, of —, and Thomas Brown, of —, to determine and ascertain, for the purposes of the said act of his late Majesty, the clear yearly value of the said vicarage: And whereas in pursuance of the said appointment, the said John Adams and Thomas Brown have determined and ascertained that the clear yearly value of the said vicarage amounts to the sum of £175 and no more; and it is intended that immediately after the execution of these presents a certificate of such clear yearly value shall be indorsed hereupon, and shall be signed by the said John Adams and Thomas Brown; And whereas the said master and fellows are desirous of augmenting the annual value of the said vicarage of Dale, to the extent and in manner hereinafter mentioned, and are desirous of exercising for that purpose the power in that behalf given or created by the said act of his late Majesty: Now this indenture witnesseth, that for effectuating the purposes aforesaid, and in pursuance and exercise of the power in this behalf given or created by the said act of his late Majesty, and of every other power in anywise enabling them in this behalf, they the said master and fellows have granted and confirmed, and by these presents do grant and confirm unto the said A. B. and his successors, vicars of the said parish church of Dale, one annual rent or yearly sum of £75 of lawful money of the United Kingdom of Great Britain and Ireland, to be charged upon and payable out of the said tithes of corn and

other grain, hay, wood, and hops belonging to the said rectory, and arising within the said parish of Dale, and to be payable by equal half-yearly payments, the first half-yearly payment to become due and be paid at the expiration of six calendar months from the day of the date of these presents; to hold and receive the said annual rent or yearly sum hereby granted or expressed so to be, unto the said A. B. and his successors, vicars of the said parish church of Dale, for ever. And, lastly, the said master and fellows do hereby declare that it is intended that these presents shall be forthwith deposited in the registry of the diocese of Canterbury, conformably with the provision in that behalf contained in the said act of his late Majesty: In witness whereof, the said parties to these presents have hereunto set their hands and seals the day and year first above written.

CERTIFICATE to be indorsed on the Deed.

The within-named John Adams and Thomas Brown do hereby certify, that, pursuant to the direction in that behalf given to them by a certain writing² bearing date the — day of —, under the hand of the within-named —, Lord Archbishop of Canterbury (being the writing now annexed to the within-written indenture), they determined and ascertained the clear yearly value of the within-mentioned vicarage of Dale; and they hereby certify, that on the¹ — day of — the same was of the clear yearly value of £175 of lawful money of the United Kingdom of Great Britain and Ireland, and no more.

(Signed) JOHN ADAMS, } Witnesses, &c.
 THOMAS BROWN, }

¹ This instrument to be annexed to the deed.

² A day immediately before the date of the deed.

No. II.

FORM of a Deed of Augmentation made by the Grant of a Rent out of Lands to the Incumbent of a Benefice in the Patronage of the Grantors. 1 & 2 Wm. 4, c. 45, sect. 4.

THIS INDENTURE⁴, made the — day of —, in the year of our Lord 18—, between A. B., the master of — Hospital in —, and patron (in right of the mastership of the said hospital) of the Rectory of Dale in the county and diocese of Lincoln, of the first part; the Right Reverend —, Lord Bishop of Exeter, visitor of the said hospital, of the second part; and the Reverend C. D., clerk, rector of Dale aforesaid, of the third part. Whereas the said A. B., in right of the mastership of the said hospital, is seised or entitled in fee simple of or to all [*set out the parcels*] with their appurtenances; and whereas, in pursuance and exercise of the provision or authority in that behalf made or given by an act passed in the first and second years of the reign of his late Majesty King William the Fourth, intituled [*here set out the title of the Act 1 & 2 W. 4. c. 45,*] the Right Reverend —, Lord Bishop of Lincoln (as the Bishop of the diocese within which the said rectory of Dale is situate), upon the request of the said A. B., did by writing under his hand, bearing date the — day of — *last* (which writing is intended to be annexed to these presents immediately after the execution hereof), appoint John Adams, of —, and Thomas Brown, of —, to determine and ascertain, for the purposes of the said act of his late Majesty, the clear

⁴ In this Form the augmentation is supposed to be made by the Master of an Hospital, with the consent of the Visitor, in favour of a rectory.

yearly value of the said rectory of Dale : and whereas the said John Adams and Thomas Brown have determined and ascertained that the clear yearly value of the said rectory of Dale amounts to the sum of £125 and no more ; and it is intended that immediately after the execution of these presents a certificate of such clear yearly value shall be indorsed hereupon, and shall be signed by the said John Adams and Thomas Brown : and whereas the said A. B. is desirous of augmenting the annual value of the said rectory of Dale to the extent and in manner hereinafter mentioned, and is desirous of exercising for that purpose the power in that behalf given or created by the said act of his late Majesty. And whereas the said —, Lord Bishop of Exeter, has consented to the said last-mentioned power being exercised by the said A. B. for the purposes aforesaid : Now this indenture witnesseth, that for effectuating the purposes aforesaid, and in pursuance and exercise of the power in this behalf given or created by the said act of his late Majesty, and of every other power in anywise enabling him in this behalf, he the said A. B. (with the consent of the said —, Lord Bishop of Exeter, as the visitor of the said hospital, testified by his executing these presents), hath granted and confirmed, and by these presents doth grant and confirm unto the said C. D. and his successors, rectors of Dale aforesaid, one annual rent or yearly sum of £50 of lawful money of the United Kingdom of Great Britain and Ireland, to be charged upon and payable out of the said pieces or parcols of land, hereditaments, and premises hereinbefore particularly mentioned, and to be payable by equal half-yearly payments, the first half-yearly payment to become due and be paid at the expiration of six calendar months from the day of the date of these presents, to hold and receive the said annual rent or yearly sum hereby granted or expressed so to be unto the said C. D. and his successors, rectors of

Dale aforesaid, for ever ; and lastly, the said A. B. doth hereby declare that these presents shall forthwith be deposited in the registry of the said diocese of Lincoln, conformably with the provision in that behalf contained in the said act of his late Majesty : in witness whereof, the said parties to these presents have hereunto set their hands and seals the day and year first above written.

CERTIFICATE to be indorsed as in Form No. I.

No. III.

FORM of a Deed of Augmentation made by the Grant of Part of a Rent to the Incumbent of a Benefice in the Patronage of the Grantor, the rent having been reserved on a subsisting Lease of Lands. 1 & 2 Wm. 4, c. 45, sect. 6.

THIS INDENTURE^a, made the — day of —, in the year of our Lord 18—, between the Most Reverend —, Lord Archbishop of Canterbury (the patron in right of his see of the rectory of Dale in the county of Kent and in the diocese of Canterbury), of the one [*or first*] part^b; and the Reverend A. B., clerk, rector of Dale aforesaid, of the other [*or third*] part: Whereas, by an indenture of lease, bearing date the — day of —, 1818, and made or expressed to be made between the Most Reverend —, late Lord Archbishop of Canterbury, of the one part, and C. D., of —, esquire, of the other part; it was witnessed, that for the considerations in the same indenture of lease mentioned, the said —, late Lord Archbishop of Canterbury, pursuant to and in exercise of certain powers to him in that behalf given by an act of Parliament made and passed in the — year of the reign of his late Majesty King George the Third, intituled, “An Act, &c.—,”

^a In this Form the augmentation is supposed to be made by an archbishop, in favour of a rectory.

N.B. Under the circumstances here supposed, no consenting party is necessary (see sect. 18), except the Ecclesiastical Commissioners, whose consent is required, under the 76th section of the act 3 & 4 Vict. c. 113, to any augmentation by a bishop or chapter whose revenues are affected by the Commissioners' Acts of Parliament. See also act 4 & 5 Vict. c. 39, s. 28.

^b If the consent of the Ecclesiastical Commissioners is necessary, add—[the Ecclesiastical Commissioners for England, of the second part.]

did demise and lease unto the said C. D. his executors, administrators, and assigns, all that piece or parcel of ground situate, &c. [*here set out the description of the premises*], with the appurtenances, to hold the same unto the said C. D., his executors, administrators, and assigns, during the term of ninety-nine years, to be computed from the — day of —, and thence next ensuing; yielding and paying therefore unto the said —, late Lord Archbishop of Canterbury, and his successors, the annual rent of £400, payable by equal half-yearly payments on the — day of —, and the — day of —, in every year during the said term; and also under and subject to the covenants in the said indenture of lease contained on the part of the lessee to be observed or performed; and by the said indenture of lease, the said C. D. did, amongst other things, for himself, his heirs, executors, and administrators, covenant and agree with the said —, late Lord Archbishop of Canterbury, and his successors, that he the said C. D., his executors, administrators, and assigns, would duly pay or cause to be paid unto the said —, late Lord Archbishop of Canterbury, and his successors, the said yearly rent of £400, thereby reserved as aforesaid, without any deduction or abatement whatsoever: And whereas the said —, late Lord Archbishop of Canterbury, died in or about the month of —, and was succeeded by the said —, now Lord Archbishop of Canterbury: And whereas, in pursuance and exercise of the provision or authority in that behalf made or given, by an act passed in the first and second years of the reign of his late Majesty King William the Fourth, intituled [*here set out the title of the Act 1 & 2 Wm. 4, c. 45*], the said —, Lord Archbishop of Canterbury, (as the Archbishop of the diocese within which the said rectory of Dale is situate, by writing under his hand, bearing date the — day of — last, which said writing is intended to be annexed to these presents immediately after the execution hereof,) appointed John

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Adams of —, and Thomas Brown of —, to determine and ascertain, for the purposes of the said act of his late Majesty, the clear yearly value of the said rectory of Dale: And whereas, in pursuance of the said appointment, the said John Adams and Thomas Brown have determined and ascertained that the clear yearly value of the said rectory of Dale amounts to the sum of £245 and no more; and it is intended, that immediately after the execution of these presents a certificate of such clear yearly value shall be indorsed hereupon, and shall be signed by the said John Adams and Thomas Brown: And whereas the said —, Lord Archbishop of Canterbury, is desirous of augmenting the annual value of the said rectory of Dale, to the extent and in manner hereinafter mentioned; and is desirous of exercising for that purpose the power in that behalf given or created by the said act of his late Majesty⁷: Now this indenture witnesseth, that for effectuating the aforesaid purpose, and in pursuance and exercise of the power to him in this behalf given by the said act of his late Majesty, and of every other power in anywise enabling him in this behalf, he, the said —, Lord Archbishop of Canterbury⁸, hath granted and confirmed, and by these presents doth grant and confirm unto the said A. B. and his successors, rectors of Dale aforesaid, the annual sum of £55, part of the said annual rent of £400 reserved by the hereinbefore recited indenture of lease

⁷ If the Ecclesiastical Commissioners are consenting parties, add—[And whereas the said Ecclesiastical Commissioners for England have consented to join and concur in these presents for the purpose of testifying their consent to and approbation of the augmentation intended to be hereby made as required by an act passed in the session of Parliament held in the third and fourth years of her present Majesty's reign, intituled, "An Act to carry into effect, with certain modifications, the Fourth Report of the Commissioners of Ecclesiastical Duties and Revenues."]

⁸ If the Ecclesiastical Commissioners are consenting parties, add—[with the consent and approbation of the said Ecclesiastical Commissioners for England (testified by their common seal being hereunto affixed).]

as aforesaid, and to be payable accordingly by equal half-yearly payments on the said — day of —, and — day of —; to hold and receive the said annual sum of £55, part of the said annual rent of £400, unto the said A. B. and his successors, rectors of Dale aforesaid, to the intent and purpose that the said pieces or parcels of ground and premises comprised in the hereinbefore recited indenture of lease may henceforth, as well after the determination of the said lease as during the continuance thereof, be chargeable to the said A. B. and his successors, rectors of Dale aforesaid, with the said annual sum of £55 payable as aforesaid; and to the intent that from and after such time as notice of the grant intended to be hereby made shall have been given to Henry Newman, of —, esquire (who is now entitled in possession under the hereinbefore recited indenture of lease), and thenceforth during the continuance of the said lease, he the said A. B. and his successors may have all the same powers and remedies for enforcing payment of the said annual sum of £55 intended to be hereby granted as aforesaid, as the said —, Lord Archbishop of Canterbury, and his successors, might have had in that behalf, in case these presents had not been executed; and to the further intent that after the determination of the said lease, the said A. B. and his successors may have such remedy for enforcing payment of the said annual sum of £55 intended to be hereby granted as aforesaid, as is in that behalf mentioned or provided in and by the said act of his late Majesty: And, lastly, the said —, Lord Archbishop of Canterbury, doth hereby direct the said A. B. forthwith to give notice of the grant to be hereby made as aforesaid, unto the said Henry Newman, or other the person or persons who for the time being may be entitled in possession under the hereinbefore recited indenture of lease, and doth hereby declare, that it is intended that these presents shall be forthwith deposited

in the registry of the said diocese of Canterbury, conformably with the provision in that behalf contained in the said act of his late Majesty: In witness whereof the said parties to these presents have hereunto set their hands and seals^o, the day and year first above written.

*CERTIFICATE to be indorsed on the Deed, as in
Form No. I.*

^o Or—[the said Lord Archbishop hath hereunto set his hand and seal, and the said Ecclesiastical Commissioners have caused their common seal to be affixed.]

No. IV.

FORM of a Deed of Augmentation made by the Grant of a rent to the Incumbent of a Benefice in the Patronage of the Grantor. The Rent to be charged on Lands, and to commence after the Expiration of a subsisting Lease in the Premises ; the lease not being at Rack-rent. 1 & 2 Wm. 4, c. 45, sect. 7.

THIS INDENTURE¹, made the — day of —, in the year of our Lord 18—, between the Right Reverend —, Lord Bishop of London, (the patron in right of his see of the vicarage of Dale, in the county and diocese of Lincoln,) of the first part; the Most Reverend —, Lord Archbishop of Canterbury of the second part; and the Reverend A. B., clerk, vicar of the parish church of Dale aforesaid, of the third part: Whereas, by an indenture of lease bearing date the — day of —, 1826, and made or expressed to be made between the said —, Lord Bishop of London, of the one part, and C. D. of the other part, it was witnessed, that in consideration of the surrender of a certain lease then subsisting in the hereditaments hereinafter mentioned, he, the said —, Lord Bishop of London, did demise and lease unto the said C. D., his executors, administrators, and assigns, all that piece or parcel of ground situate, &c. [*here set out the description of the premises*], with the appurtenances, to hold the same unto the said C. D., his executors, administrators, and assigns, during the term of twenty-one years, to be computed from the — day of —, and thence next ensuing, at and

¹ The grant is supposed to be made by a bishop, with the consent of the archbishop of the province, in favour of a vicarage.

If the consent of the Ecclesiastical Commissioners is requisite, this Form will be altered in a similar manner to Form No. III.

under the rent and covenants in and by the said indenture of lease reserved or contained, and on the part of the lessee to be paid, observed, or performed: And whereas, in pursuance and exercise of the provision or authority in that behalf made or given by an act passed in the first and second years of the reign of his late Majesty King William the Fourth, intituled [*here set out the title of the Act 1 & 2 Wm. 4, c. 45*], the Right Reverend —, Lord Bishop of Lincoln (as the bishop of the diocese within which the said vicarage of Dale is situate), upon the request of the said —, Lord Bishop of London, did by writing under his hand, bearing date the — day of — last (which said writing is intended to be annexed to these presents immediately after the execution hereof), appoint John Adams of —, and Thomas Brown of —, to determine and ascertain, for the purposes of the said act of his late Majesty, the clear yearly value of the said vicarage of Dale: And whereas, in pursuance of the said appointment, the said John Adams and Thomas Brown have determined and ascertained that the clear yearly value of the said vicarage of Dale amounts to the sum of £110 and no more; and it is intended that immediately after the execution of these presents a certificate of such clear yearly value shall be indorsed hereupon, and shall be signed by the said John Adams and Thomas Brown: And whereas the said —, Lord Bishop of London, is desirous of augmenting the annual value of the said vicarage of Dale to the extent and in manner hereinafter mentioned, and is desirous of exercising for that purpose the power in that behalf given or created by the said act of his late Majesty: And whereas the said —, Lord Archbishop of Canterbury, has consented to the said last-mentioned power being exercised by the said —, Lord Bishop of London, for the purposes aforesaid: Now this in-

denture witnesseth, that for effectuating the said purposes, and in pursuance and exercise of the power in this behalf given or created by the said act of his late Majesty, and of every other power in anywise enabling him in this behalf, he, the said Lord Bishop of London, with the consent of the said —, Lord Archbishop of Canterbury (testified by his executing these presents), hath granted and confirmed, and by these presents doth grant and confirm, unto the said A. B. and his successors, vicars of the said parish church of Dale, one annual rent or yearly sum of £100, to be charged upon, and yearly issuing or payable out of the said pieces or parcels of ground and premises comprised in the hereinbefore recited indenture of lease, and to commence and take effect in possession after the expiration, surrender, or other determination of the said lease; the same annual rent or yearly sum to be payable by equal half-yearly payments, on the — day of — and the — day of — in every year, after the expiration, surrender, or other determination of the said lease; but the first payment of the said annual rent or yearly sum to be limited to a part proportioned to the time which upon the first of the said days of payment shall have elapsed from the expiration, surrender, or other determination of the said lease; to hold and receive the said annual rent or yearly sum hereby granted, or expressed so to be, unto the said A. B. and his successors, vicars of the said parish church of Dale for ever, subject nevertheless to the power which (in the event of a renewal of the said lease before the expiration thereof) is given or reserved by the said act of his late Majesty, of deferring the time from which the said annual rent or yearly sum is to commence or take effect in possession: and, lastly, the said —, Lord Bishop of London, doth hereby declare, that it is intended that these presents shall be forthwith deposited in the

registry of the said diocese of Lincoln, conformably with the provision in that behalf contained in the said act of his late Majesty. In witness whereof, the said parties to these presents have hereunto set their hands and seals the day and year first above written.

CERTIFICATE to be indorsed as in Form No. I.

No. V.

FORM of a Provision (to be inserted in a renewed Lease) for deferring the Time from which an Augmentation (granted under 1 & 2 Wm. 4, c. 45, sect. 7) is to take effect in Possession, sect. 8 of the same Act.

THE renewed² lease should recite the lease during which the augmentation was granted; then grant the new lease, in consideration of the surrender of the former; and then proceed as follows:—And whereas³ by an indenture bearing date the — day of —, 18—, and made or expressed to be made between the Right Reverend —, late Lord Bishop of London (the then patron in right of his see of the vicarage of Dale in the county of Lincoln), of the first part; the Most Reverend —, Lord Archbishop of Canterbury, of the second part; and the Reverend A. B., clerk, vicar of the parish church of Dale aforesaid, of the third part; the said —, late Lord Bishop of London, pursuant to the power in that behalf given by an act passed in the first and second years of the reign of his late Majesty King William the Fourth, intituled [*here set out the title of the statute* 1 & 2 Wm. 4, c. 45], did (with the consent of the said —, Lord Archbishop of Canterbury) grant unto the said A. B., and his successors, vicars of the said parish church of Dale, one annual rent or yearly sum of £100, to be charged upon and yearly issuing or payable out of the said pieces or parcels of ground and premises hereinbefore demised or expressed so to be, to commence and take effect in possession after the expiration, surrender, or other

² N.B. It is in the renewed lease that the provision for deferring the augmentation is to be inserted. See sect. 8.

³ This is a recital of Form No. IV.

determination of the said lease hereinbefore mentioned to have been surrendered as aforesaid, and to be payable by equal half-yearly payments on the — day of — and the — day of — in every year, after the expiration, surrender, or other determination of the said lease; but the first payment of the said annual rent or yearly sum to be limited as therein mentioned; to hold the same unto the said A. B. and his successors, vicars of the said parish church of Dale, for ever, subject, nevertheless, to the power which (in the event of the renewal of the said lease before the expiration thereof) was given or reserved by the said act of his late Majesty, of deferring the time from which the said annual rent or yearly sum was to commence or to take effect in possession; Now this indenture witnesseth that the said —, now Lord Bishop of London, in pursuance and exercise of the power in this behalf given or created by the said act of his late Majesty, and of every other power in anywise enabling him in this behalf, doth in and by this present indenture defer the time from which the said annual rent or yearly sum of £100, granted by the said indenture of the — day of —, 18—, is to take effect in possession, until the⁴ — day of —, which will be in the year of our Lord —; and doth hereby accordingly declare, that the first half-yearly payment of the said annual rent or sum shall be payable on the said last-mentioned day: and the said —, now Lord Bishop of London, doth hereby declare that these presents shall be forthwith deposited in the registry of the said diocese of Lincoln, conformably with the provision in that behalf contained in the said act of his late Majesty. In witness whereof, the said parties to these presents have hereunto set their hands and seals the day and year first above written.

⁴ This should be one of the days on which the rent was made payable, and must be a day falling within the time limited by sect. 8.

No. VI.

FORM of a Deed of Augmentation made by the Annexation of Tithes^a to a Church situate within the parish in which the Tithes arise. 1 & 2 Wm. 4, c. 45, sect. 11.

THIS INDENTURE^a made the — day of —, in the year of our Lord 18—, between the dean and chapter of the cathedral church of —, of the one part, and the Reverend A. B., clerk, perpetual curate of the district parish of Saint John, in the diocese of Canterbury, (which said district parish of Saint John is part of the parish of Saint Thomas, in the county of —, and was made a district parish in the year 18—, under the powers of an act passed in the fifty-eighth year of the reign of his late Majesty King George the Third⁷, intituled, “An act for promoting the building of additional churches in populous parishes,”) of the other part; whereas the said dean and chapter are seised or entitled in fee simple of or to the impropriate rectory of Saint Thomas, and the tithes and profits thereunto belonging, arising within the said parish of Saint Thomas: And whereas, in pursuance and exercise of the provision or authority in that behalf made or given by an act passed in the first and second years of the reign of his late Majesty King William the Fourth, intituled [*here set out the title of the statute 1 & 2 Wm.*

^a If the tithes of the parish have been commuted, the deed must be altered throughout accordingly.

^a In this Form the augmentation is supposed to be made by a dean and chapter, in favour of a district church.

N.B. Under the circumstances here supposed, no consenting party is necessary under the act. See sect. 18.

If the consent of the Ecclesiastical Commissioners is requisite, this Form must be altered in a similar manner to Form No. III.

⁷ 58 Geo. 3, c. 45, s. 21.

4, c. 45], the Most Reverend —, Lord Archbishop of Canterbury, (in whose diocese the perpetual curacy of the said district parish of Saint John is situate,) upon the request of the said dean and chapter, did, by writing under his hand bearing date the — day of — last (which said writing is intended to be annexed to these presents immediately after the execution hereof), appoint John Adams of —, and Thomas Brown of —, to determine and ascertain, for the purposes of the said act of his late Majesty, the clear yearly value of the said perpetual curacy, and also the clear yearly value of so much of the tithes and other profits belonging to the said rectory of Saint Thomas as arise within the said district parish of Saint John : And whereas, in pursuance of the said appointment, the said John Adams and Thomas Brown have determined and ascertained that the clear yearly value of the said perpetual curacy amounts to the sum of £110, and no more ; and that the clear yearly value of so much of the tithes and other profits belonging to the said rectory of Saint Thomas as arise within the said district parish of Saint John amounts to the sum of £50, and no more ; and it is intended that immediately after the execution of these presents a certificate of the clear yearly value of the same premises respectively, as so determined and ascertained by the said John Adams and Thomas Brown, shall be indorsed hereupon, and shall be signed by them the said John Adams and Thomas Brown : And whereas the said dean and chapter are desirous of augmenting the annual value of the said perpetual curacy of Saint John, by annexing to the district parish church of Saint John so much of the tithes and other profits belonging to the said rectory of Saint Thomas as arise within the said district parish of Saint John, and are desirous of exercising for that purpose the power in that behalf given or created by the said act of his late Majesty : Now this indenture

witnesseth, that for effectuating the purposes aforesaid, and in pursuance and exercise of the power in this behalf given or created by the said act of his late Majesty, and of every other power in anywise enabling them in this behalf, the said dean and chapter do by this present deed, by them duly executed, annex unto the said district parish church of Saint John, all so much and such part of the said tithes and other profits belonging to the said rectory of Saint Thomas, or being part or parcel thereof, as arise within the said district parish of Saint John, to the intent that the said tithes and premises hereby annexed or expressed so to be may be henceforth received and enjoyed by the said C. D. and his successors, perpetual curates of the said district parish of Saint John, for ever; and the said dean and chapter do hereby declare, that it is intended that these presents shall be forthwith deposited in the registry of the diocese of Canterbury, conformably with the provision in that behalf contained in the said act of his late Majesty. In witness whereof, the said dean and chapter have caused their common seal to be hereunto affixed, and the said A. B. hath hereunto set his hand and seal the day and year first above written.

CERTIFICATE to be indorsed on the Deed. See Form of Certificate at the foot of Form of Deed No. VII.

No. VII.

FORM of a Deed of Augmentation made by the Annexation of Land and Tithes^a to a Church, in the Patronage of the Person by whom the Annexation is made. 1 & 2 Wm. 4, c. 45, sect. 12.

N.B. The Premises are supposed to be comprised (with other Hereditaments) in a subsisting lease, and Provision is made for determining the Proportion of the reserved Rent, which during the Continuance of the Lease is to go with the Premises annexed. Sect. 13.

THIS INDENTURE^b, made the — day of —, in the year of our Lord 18—, between the Reverend A. B., of —, clerk, prebendary of the prebend of —, in the cathedral church of Lincoln, and patron (in right of the said prebend) of the vicarage of Dale, in the county and diocese of Lincoln, of the first part; the Right Reverend —, Lord Bishop of Lincoln, of the second part; and the Reverend C. D., of —, clerk, vicar of the parish church of Dale aforesaid, of the third part: Whereas by an indenture of lease bearing date the —

^a If the tithes of the parish have been commuted, the deed must be altered throughout accordingly.

^b In this Form the augmentation is supposed to be made by a prebendary, with the consent of the bishop, in favour of a vicarage. If the grantor's revenues are affected by the acts of Parliament relating to the Ecclesiastical Commissioners, the consent of the Commissioners is requisite under the act 4 & 5 Vict. c. 39, s. 26—in which case this Form must be altered in a similar manner to Form No. III.—except that instead of the reference to the act 3 & 4 Vict. c. 113, must be substituted "as required by an act passed in the session of Parliament held in the fourth and fifth years of her present Majesty's reign, intituled, 'An Act to explain and amend two several acts relating to the Ecclesiastical Commissioners for England.'"

day of —, 1826, and made or expressed to be made between the said A. B., of the one part, and E. F., esquire, of the other part, it was witnessed, that for the considerations therein mentioned the said A. B. did demise and lease unto the said C. D., his executors, administrators, and assigns, certain hereditaments therein particularly described, being part or parcel of the said prebend, and comprising, amongst other hereditaments, a certain piece or parcel of land then and now commonly called or known by the name of the Home Close, containing by estimation five acres, were the same more or less, situate and being in the parish of Booking, in the said county of Lincoln, and also comprising all those the tithes of lamb and wool yearly arising within the said parish of Booking, to hold the same unto the said C. D., his executors, administrators, and assigns, during the term of twenty-one years thence next ensuing, yielding and paying therefore unto the said A. B., and his successors, prebendaries of the said prebend, the yearly rent of 18*l.*, payable by equal half-yearly payments, on the — day of —, and the — day of —, in every year during the said term, and also under and subject to the covenants in the said indenture of lease contained on the part of the lessee to be observed and performed: And whereas, in pursuance and exercise of the provision or authority in that behalf made or given by an act passed in the first and second years of the reign of his late Majesty King William the Fourth, intituled [*here set out the title of the statute 1 & 2 Wm. 4, c. 45*], the Right Reverend —, Lord Bishop of Lincoln (as the bishop of the diocese within which the said vicarage of Dale is situate), upon the request of the said A. B., did, by writing under his hand, bearing date the — day of — last (which said writing is intended to be annexed to these presents immediately after the execution hereof), appoint John Adams of —, and Thomas Brown of —, to determine and ascertain, for

the purposes of the said act of his late Majesty, the clear yearly value of the said vicarage of Dale, and also the clear yearly value of the said piece or parcel of ground called the Home Close, and of the said tithes of lamb and wool: And whereas, in pursuance of the said appointment, the said John Adams and Thomas Brown have determined and ascertained that the clear yearly value of the said vicarage of Dale amounts to the sum of £200, and no more, and that the clear yearly value of the said piece or parcel of ground called the Home Close, and of the said tithes of lamb and wool, amounts to the sum of £80, and no more; and it is intended that immediately after the execution of these presents a certificate of the clear yearly value of the same premises respectively, as so determined and ascertained by the said John Adams and Thomas Brown, shall be indorsed hereupon, and shall be signed by them the said John Adams and Thomas Brown: And whereas the said A. B. is desirous of augmenting the annual value of the said vicarage of Dale, by annexing to the said parish church of Dale the said piece or parcel of ground called the Home Close, and the said tithes of lamb and wool, and is desirous of exercising for that purpose the power in that behalf given or created by the said act of his late Majesty: And whereas the said —, Lord Bishop of Lincoln, has consented to the said last-mentioned power being exercised by the said A. B. for the purposes aforesaid: Now this indenture witnesseth, that for effectuating the purposes aforesaid, and in pursuance and exercise of the power in this behalf given or created by the said act of his late Majesty, and of every other power in anywise enabling him in this behalf, he, the said A. B., with the consent of the said —, Lord Bishop of Lincoln (testified by his executing these presents), doth by this present deed, by him duly executed, annex unto the said parish church of Dale all that the said piece or parcel of ground called the Home

Close, situate and being in the said parish of Booking, and also all those the tithes of lamb and wool yearly arising in the said parish of Booking, with the appurtenances, to the intent that the said piece or parcel of ground and premises hereby annexed, or expressed so to be, may be henceforth held and enjoyed (subject, nevertheless, and without prejudice to the hereinbefore recited indenture of lease) by the said C. D. and his successors, vicars of the said parish church of Dale, for ever; and ¹ this indenture further witnesseth, that, pursuant to the provision in that behalf contained in the said act of his late Majesty, it is hereby determined that the annual sum of £8, being four equal ninth parts of the said annual rent of £18, reserved or made payable by the hereinbefore recited indenture of lease as aforesaid, shall be the proportionate part of the same, in pursuance of the provisions of the said act of his late Majesty, to be payable to the said C. D. and his successors, vicars of the said parish church of Dale, during the continuance of the said lease: And, lastly, the said A. B. doth hereby declare that it is intended that these presents shall be forthwith deposited in the registry of the said diocese of Lincoln, conformably with the provision in that behalf contained in the said act of his late Majesty. In witness whereof, the said parties to these presents have hereunto set their hands and seals, the day and year first above written.

CERTIFICATE to be indorsed on the Deed.

The within-named John Adams and Thomas Brown do hereby certify, that, pursuant to the direction in that behalf given to them by a certain writing, bearing date

¹ See sect. 13.

the —— day of ——, under the hand of the within-named ——, Lord Bishop of Lincoln (being the writing now annexed to the within-written indenture), they determined and ascertained the clear yearly value of the within-mentioned vicarage of Dale, and also the clear yearly value of the within-mentioned piece or parcel of ground, and of the within-mentioned tithes² of lamb and wool; and they hereby certify, that on the³ —— day of —— the said vicarage of Dale was of the clear yearly value of £200 of lawful money of the United Kingdom of Great Britain and Ireland, and the said piece or parcel of ground, together with the said tithes, were of the clear yearly value of £80 of like lawful money.

(Signed) JOHN ADAMS.
THOMAS BROWN.

² If the tithes have been commuted, alter this certificate accordingly.

³ Some day immediately before the date of the deed.

No. VIII.

FORM of Instrument of Appointment of Valuers.

1 & 2 Wm. 4, c. 45, sect. 17.

To all to whom these presents shall come. Whereas the Right Reverend —, Lord Bishop of London, hath been informed that the dean and chapter of the cathedral church of St. Paul in London desire to exercise one of the powers created by an act passed in the first and second years of the reign of his late Majesty King William the Fourth, intituled [*here insert title of the act*], and desire, in exercise of the said power, to grant an augmentation to the vicarage of —, in the county of —, (which said vicarage is situate in the diocese of London,) and the said —, Lord Bishop of London, hath been also informed that the said dean and chapter are desirous that the clear annual value of the said vicarage of —, and also the clear annual value of the pieces or parcels of ground and tithes hereinafter particularly mentioned, should be ascertained and determined for the purposes of the said act of his late Majesty, in the manner thereby authorized or provided : Now be it known, that the said —, Lord Bishop of London, in exercise of the power or authority to him in this behalf given by the said act of his late Majesty, doth by this present writing under his hand appoint John Adams of —, and Thomas Brown of —, to determine and ascertain for the purposes of the said act the clear yearly value of the said vicarage of —, and also the clear yearly value of all that piece or parcel of ground, &c. [*here describe the lands, &c.*], and doth hereby also direct the said John Adams and Thomas Brown to certify the clear yearly value of the said premises respectively, in such manner as the said dean and chapter shall direct. In witness, &c.

No. IX.

FORM of a Deed of Annexation by the Incumbent of a Benefice entitled to Tithes⁴ arising within another Parish, of such Tithes to a Church within the Parish in which they arise. 1 & 2 Wm. 4, c. 45, sect. 20.

THIS INDENTURE⁵, made the — day of —, in the year of our Lord 18—, between the Reverend A. B., clerk, rector of Dale, in the county of Essex and diocese of London, of the first part; the Right Reverend —, Lord Bishop of London, of the second part; C. D., of —, Esquire, and E. F., of —, Esquire (patrons of the rectory of Dale aforesaid), of the third part; and the Reverend G. H., clerk, vicar of the parish church of Booking in the said county of Essex, of the fourth part: Whereas the said A. B. is entitled, in right of the said rectory of Dale, to all the tithes of lamb and wool arising within the parish of Booking aforesaid; and whereas the said A. B. is desirous of annexing the said tithes of lamb and wool to the said parish church of Booking, to the intent that the same may be enjoyed by the incumbent for the time being of the said church, and is desirous of exercising for that purpose the power given or created by an act passed in the first and second years of the reign of his late Majesty King William the Fourth, intituled [*here set forth the title of the act*]; and whereas the said —, Lord Bishop of London, and the said C. D. and E. F. have respectively consented to such annexation as aforesaid being made: Now this indenture witnesseth, that for effectuating the purposes aforesaid, and in pursuance

⁴ If the tithes have been commuted, the deed must be altered accordingly.

⁵ In this form, the annexation is supposed to be made by a rector in favour of a vicarage.

and exercise of the power in this behalf given or created by the said act of his late Majesty, and of every other power in anywise enabling him in this behalf, he, the said A. B., with the consent of the said —, Lord Bishop of London (as the bishop of the diocese within which the said rectory of Dale is situate), and of the said C. D. and E. F. (as patrons of the said rectory of Dale), testified by their respectively executing these presents, doth by this present deed, duly executed by him, annex unto the said parish church of Booking all and singular the said tithes of lamb and wool arising or hereafter to arise within the said parish of Booking, to the intent that the same may be henceforth received, taken, and enjoyed by the said G. H. and his successors, vicars of Booking aforesaid, for ever; and the said A. B. doth hereby direct that these presents shall be forthwith deposited in the registry of the diocese of London, conformably with the provisions in that behalf contained in the said act of his late Majesty. In witness whereof, the said parties to these presents have hereunto set their hands and seals the day and year first above written.

No. X.

FORM of a Deed of Annexation by the Incumbent of a Rectory to a Chapel, of so much of the Tithes, &c., belonging to the Rectory as arise within a particular Part of the Parish. 1 & 2 Wm. 4, c. 45, sect. 21.*

THIS INDENTURE, made the —— day of ——, in the year of our Lord 18—, between the Reverend A. B., clerk, the rector of Dale, in the county of Surrey and Diocese of Canterbury, of the first part; the Most Reverend ——, Lord Archbishop of Canterbury, of the second part; C. D., of ——, Esquire, the patron of the rectory of Dale aforesaid, of the third part; and the Reverend E. F., clerk, perpetual curate of the chapel of Saint John in the parish of Dale aforesaid (which said chapel is situate within the limits of the said rectory of Dale), of the fourth part: Witnesseth, that in pursuance and exercise of the power in this behalf given or created by an act passed in the first and second years of the reign of his late Majesty King William the Fourth, intituled [*here set out the title of the statute 1 & 2 Wm. 4, c. 45.*], and of every other power in anywise enabling him in this behalf, the said A. B., with the consent of the said ——, Lord Archbishop of Canterbury (to whose ordinary jurisdiction the said rectory of Dale is subject), and of the said C. D. (as the patron of the said rectory of Dale), testified by their respectively executing these presents, doth hereby annex unto the said chapel of Saint John, all so much and such part of the tithes, moduses, and compositions for tithes belonging to the said rectory of Dale, or hereafter to arise or become due or payable within that part of the said

* If the tithes have been commuted, the deed must be altered throughout accordingly.

parish of Dale which is commonly called or known by the name of Mead, and being bounded on the north and east by the adjoining parish of Booking, on the north-west, and west by the forest or woodland commonly called or known by the name of the Bushes, and on the south by the road or lane called Water Lane, running from the high road to the town or village of Dale; and also all, so much, and such part of all oblations, obventions, and other profits belonging to the said rectory of Dale, or hereafter to arise or become due or payable within the limits of the said rectory, and not being tithes, moduses, or compositions for tithes, as shall from time to time hereafter arise or become due or payable within such part of the said parish of Dale as aforesaid, to the intent that the said E. F. and his successors, perpetual curates of the said chapel of Saint John, may henceforth receive and enjoy the said premises expressed to be hereby annexed to the said chapel, and may have and exercise all the same remedies for recovering and enforcing payment thereof as the said A. B. and his successors, rectors of Dale aforesaid, might have had if these presents had not been made; and the said A. B. doth hereby declare, that it is intended that these presents shall be forthwith deposited in the registry of the peculiar jurisdiction aforesaid, conformably with the provision in that behalf contained in the said Act of his late Majesty. In witness whereof, the said parties to these presents have hereunto set their hands and seals the day and year first above written.

No. XI.

FORM of a Deed of Grant by the Incumbent of a Vicarage to the perpetual Curate of a Chapel, of an annual Sum to be charged on the Glebe Land of the Vicar, with Powers of Distress and Entry to enforce Payment. 1 & 2 Wm. 4, c. 45, sect. 21.

THIS INDENTURE, made the — day of —, in the year of our Lord 18—, between the Reverend A. B., clerk, the vicar of the parish church of Dale, in the county and diocese of Chester, of the first part; the Right Reverend —, Lord Bishop of Chester, of the second part; C. D., of —, Esquire, the patron of the vicarage of Dale aforesaid, of the third part; and the Reverend E. F., clerk, perpetual curate of the chapel called East End Chapel, (which said chapel is situate within the limits of the said vicarage of Dale), of the fourth part: Witnesseth, that in pursuance and exercise of the power in this behalf given or created by an act passed in the first and second years of the reign of his late Majesty King William the Fourth, intituled [*here set out the title of the statute 1 & 2 Wm. 4, c. 45*⁷] and of every other power enabling him in this behalf, the said A. B., with the consent of the said —, Lord Bishop of Chester (as the bishop in whose diocese the said vicarage of Dale is situate), and of the said C. D. (as the patron of the said vicarage of Dale), testified by their respectively executing these presents, doth hereby grant unto the said E. F. and his successors, perpetual curates of the said chapel, the annual sum of £40 of lawful money of the United Kingdom of Great Britain and Ireland, to be charged upon and payable

⁷ If a consolidated chapelry is the subject of augmentation, refer to the act 1 & 2 Vict. c. 107.

out of all and singular the glebe lands belonging to the said vicarage of Dale and their appurtenances, and to be payable by equal half-yearly payments, the first half-yearly payment thereof to become due and be paid at the expiration of six calendar months from the day of the date of these presents, to hold and receive the said annual sum of money hereby granted, or expressed so to be, unto the said E. F. and his successors, perpetual curates of the said chapel, for his and their own use and benefit absolutely; and in order to specify and determine, pursuant to the provisions of the said act of his late Majesty, the remedies of the said E. F. and his successors, perpetual curates of the said chapel, for recovering and enforcing payment of the said annual sum of money, it is hereby provided and declared, that in case the said annual sum of money, or any part thereof, shall at any time be in arrear and unpaid, it shall, in every such case, be lawful for the said E. F. and his successors, perpetual curates of the said chapel, thereupon to enter into and upon all or any part of the said glebe lands and premises hereby charged with the said annual sum of money as aforesaid, and to dispose of the distress or distresses there taken, or otherwise to act in the premises as in the case of a distress taken for rent reserved upon a common demise, to the intent that the said E. F. and his successors, perpetual curates of the said chapel, may be fully paid and satisfied the said annual sum of money, or such part thereof as shall be in arrear as aforesaid, and all costs and expenses occasioned by the non-payment thereof: And further, that in case the said annual sum of money, or any part thereof, shall at any time be in arrear and unpaid by the space of twenty-one days, it shall in every such case be lawful for the said E. F. and his successors, perpetual curates of the said chapel, to enter into and upon, and to hold all or any part of the said glebe lands and premises hereby charged with the said annual sum of

money, and to receive the rents and profits thereof for his and their own use, until therewith or thereby, or otherwise, the said annual sum of money, or such part thereof as shall be so in arrear as aforesaid, and all costs and expenses occasioned by the non-payment thereof, shall be fully paid and satisfied: And, lastly, the said A. B. doth hereby declare, that it is intended that these presents shall be forthwith deposited in the registry of the diocese of Chester aforesaid, conformably with the provision in that behalf contained in the said act of his late Majesty. In witness whereof, the said parties to these presents have hereunto set their hands and seals the day and year first above written.

No. XII.

*SUMMARY of the PROVISIONS of ACT 17 &
18 VICT. c. 84.*

By an act of 17 & 18 Vict. c. 84, an incumbent may, with consent of bishop and patron, annex land belonging to any church within the parish in which the land is situate; and the 13th sect. of the act 1 & 2 Wm. 4, c. 45, in regard to the apportionment of rent, is made to apply to such a case.

By this act also an incumbent to whom a rent-charge may have been granted under any of the provisions of the acts 29 Car. 2, c. 8; 1 & 2 Wm. 4, c. 45; and 17 & 18 Vict. c. 84, is enabled, with consent of patron and bishop, to release any portion of the property charged.

APPENDIX.

17 CHARLES II. cap. 3¹.

Part of an Act for uniting Churches in Cities and Towns Corporate.

VII. AND be it further enacted, by the authority aforesaid, Owners of that every owner or proprietor, owners or proprietors, of any impropriations, &c., impropriation, tithes, or portion of tithes, in any parish or may annex chapelry within the kingdom of England or dominion of the same.

Wales, is, are, and shall be, by virtue of this act, enabled and empowered to give or bestow, unite and annex the same, or any part thereof, unto the parsonage or vicarage of the said parish church or chapel where the same do lie or arise, or settle the same in trust for the benefit of the said parsonage or vicarage, or of the curate and curates there successively, where the parsonage is impropriate, and no vicar endowed, according to his or their respective estates, without any licence of mortmain, any law or statute to the contrary notwithstanding.

VIII. And be it further enacted, that if the settled main- What par-tenance of such parsonages, vicarages, churches, and chapels, sons and so united, or of any other parsonage or vicarage, with cure, vicars may in the kingdom of England or dominion of Wales, shall not purchase, amount to the full sum of one hundred pounds per annum, &c., lands, clear and above all charges and reprises, that then it shall &c., with-be lawful for the parson, vicar, and incumbent of the same, out licence of mort- main.

¹ The act 17 Car. 2, c. 3, was repealed by the act 1 & 2 Vict. c. 106, but revived, as to the above two clauses, by the act 6 & 7 Vict. c. 37, s. 25.

and his successors, to take, receive, and purchase to him and his successors, lands, tenements, rents, tithes, or other hereditaments, without any licence of mortmain, any law or statute to the contrary notwithstanding.

17 GEORGE III. cap. 53^a.

An Act to promote the Residence of the Parochial Clergy, by making Provision for the more speedy and effectual building, rebuilding, repairing, or purchasing Houses, and other necessary Buildings and Tenements, for the Use of their Benefices.

WHEREAS many of the parochial clergy, for want of proper habitations, are induced to reside at a distance from their benefices, by which means the parishioners lose the advantage of their instruction and hospitality, which were great objects in the original distribution of tithes and glebes for the endowment of churches; for remedy whereof, may it please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present parliament assembled, and by the authority of the same, That from and after the twenty-fourth day of June one thousand seven hundred and seventy-seven, whenever the parson, vicar, or other incumbent of any ecclesiastical living, parochial benefice, chapelry, or perpetual curacy, being under the jurisdiction of the bishop or other ecclesiastical ordinary, whereon there is no house or habitation, or such house is become so ruinous and decayed, or is so mean, that one year's neat income and produce of such living will not be sufficient to build, rebuild, or put the same, with the necessary offices belonging thereto, in sufficient repair, shall think fit to apply for the aid and assistance intended to be

Incumbent
of any
ecclesiasti-
cal living
whereon
there is no
house, &c.

^a Amended by 21 Geo. 3, c. 66; 7 Geo. 4, c. 66. Extended by 1 & 2 Vict. c. 23.

given by this act, it shall and may be lawful for every such parson, vicar, or incumbent (after having procured, from some skilful and experienced workman or surveyor, a certificate, containing a state of the condition of the buildings on their respective glebes, and of the value of the timber and other materials thereupon fit to be employed in such buildings or repairs, or to be sold, and also a plan and estimate of the work proposed to be done (such state and estimate to be verified upon oath, taken before some justice of the peace or master in chancery, ordinary or extraordinary), and laid the same, together with a just and particular account in writing, signed by him, and verified upon oath, taken as aforesaid, of the annual profits of such living, before the ordinary and patron of the living, and obtained their consent to such proposed new buildings or repairs, by writing under their respective hands, in the form for that purpose contained in the schedule hereunto annexed) to borrow and take up at interest, in the manner hereafter mentioned, such sum or sums of money as the said estimate shall amount unto, after deducting the value of timber or other materials which may be thought proper to be sold, not exceeding two years' neat income and produce of such living, after deducting all rents, stipends, taxes, and other outgoings, excepting only the salaries to the assistant curate, where such a curate is necessary; and as a security for the money so to be borrowed, to mortgage the glebe, tithes, rents, and other profits and emoluments arising or to arise from such living, to such person or persons, who shall advance the same, by one or more deed or deeds, for the term of twenty-five years, or until the money so to be borrowed, with interest for the same, and such costs and charges as may attend the recovery thereof, shall be fully paid and satisfied, according to the terms, conditions, true intent and meaning of this act; which mortgage deed or deeds shall be made in the forms or to the effect for that purpose contained in the said schedule⁴, and

(with the consent of the ordinary and patron), may borrow money to build one,

and mortgage the glebe, tithes, &c., for 25 years.

³ See 1 Vict. c. 23, s. 1.

⁴ As, in cases of mortgage to the governors of Queen Anne's Bounty, the governors' solicitors prepare all the necessary instruments, the schedule to the act is, for the sake of brevity, omitted.

shall bind every succeeding] parson, vicar, or incumbent of such living, until the principal and interest, costs and charges, shall be paid off and discharged, as fully and effectually as if such successor had executed the same.

Every mortgagee to execute a counterpart of the mortgage, to be kept by the incumbent, &c.

II. And be it further enacted, that every such mortgagee shall execute a counterpart of every such mortgage, to be kept by the incumbent for the time being; and a copy of every such deed of mortgage shall be registered in the office of the registrar of the bishop of the diocese where the parish lies, or other ordinary having episcopal jurisdiction therein for the time being, after having been first examined by him with the original; which officer shall register the same, and be entitled to demand and receive the sum of five shillings, and no more, for such register; and every such deed shall be referred to upon all necessary occasions, the person inspecting the same paying one shilling for every such search; and the said deed, or a copy thereof, certified under the hand of the registrar, shall be allowed as legal evidence, in case any such mortgage deed shall happen to be lost or destroyed.

On failure of payment of principal and interest for 40 days after due, mortgagee may dis-train.

III. Provided always, and be it further enacted, that whenever the principal and interest, directed to be paid to the mortgagee under the several provisions of this act, shall be in arrear and unpaid for the space of forty days after the same shall become due, it shall and may be lawful for such mortgagee, his executors, administrators, or assigns, to recover the same, and the costs and charges attending the recovery thereof, by distress and sale, in such manner as rents may be recovered by landlords or lessors from their tenants by the laws in being.

Money borrowed to be paid to such persons as the ordinary, &c., shall appoint;

IV. And be it further enacted, that the money so to be borrowed shall be paid into the hands of such person or persons as shall be nominated and appointed to receive and apply the same for the purposes aforesaid, by the ordinary, patron, and incumbent, by writing under their respective hands, in the form for that purpose contained in the said schedule, after such nominee shall have given a bond to the ordinary, with sufficient surety, in double the sum so to be borrowed or raised, with condition for his duly applying and accounting for the same according to the directions of this

act ; and the receipt of the person or persons so to be nominated shall be a sufficient discharge to the person or persons who shall advance and pay the money ; and the person or persons so to be nominated shall enter into contracts with proper persons for such buildings or repairs as shall be approved by the ordinary, patron, and incumbent, and shall be specified in an instrument written upon parchment, and signed by them in the form for that purpose contained in the said schedule ; and shall inspect and have the care of the execution of such contracts, and shall pay the money for such buildings and repairs, according to the terms of such agreements, and shall take proper receipts and vouchers for the same ; and as soon as such buildings or repairs shall be completed, and the money paid, shall make out an account of his receipts and payments, together with the vouchers for the same, and enter them in a book, fairly written, which shall be signed by him, and laid before the ordinary, patron, and incumbent, and examined by them ; and when allowed, by writing under their respective hands, in the form for that purpose contained in the said schedule, such allowance shall be a full discharge to the person so nominated, in respect to the said accounts ; and if any balance shall remain in the hands of such nominee or nominees the same shall be laid out in some further lasting improvements in building upon such glebe, or shall be paid and applied in discharge of so much of the said principal debt as such balance will extend to pay, at the discretion of the said ordinary, patron, and incumbent, or two of them, of which the said ordinary to be one, by orders signed by them, in the form for that purpose contained in the said schedule ; and an account shall also be kept, made out, and allowed, of such further disbursements, in manner aforesaid ; all which accounts, when made out, completed, and allowed, shall be deposited with the vouchers, in the hands of the said registrar, and kept by him for the use and benefit of the incumbents of such living for the time being, who shall have a right to inspect the same whenever occasion shall require, paying to such registrar, or deputy registrar, the sum of one shilling for every such inspection.

who shall contract for the buildings, &c., and see the same executed, and pay for them, &c.

How the balance remaining shall be disposed of.

V. Provided always, and be it further enacted, that every Ordinary to cause

inquiry to be made of the condition of the buildings when the incumbent entered on the living, &c.

such ordinary, before he or they shall signify his or their consent, in manner aforesaid, shall cause an inquiry to be made, and certified to him or them, by the archdeacon, chancellor of the diocese, or other proper persons living in or near the parish where such buildings are proposed to be made or repaired, in the forms for that purpose specified in the said schedule, of the state and condition of such buildings at the time the incumbent entered upon such living or benefice, how long such incumbent had enjoyed such living or benefice, what money he had received, or may be entitled to receive, for dilapidations, and how and in what manner he had laid out what he had so received; and if it shall appear to them that such incumbent had, by wilful negligence, suffered such buildings to go out of repair, then to certify the same to the said ordinary, and also the amount of the damage which such buildings had sustained by the wilful neglect of such incumbent; and such incumbent, if the ordinary require it, shall pay the same into the hands of the nominee or nominees, to be appointed under the authority of this act towards defraying the expenses of building or repairs before the ordinary shall give his consent as aforesaid.

Directions for payment of the principal and interest of the mortgages.

VI. And be it further enacted, that the incumbent of every such living or benefice, in cases where such mortgage or mortgages shall be made as aforesaid, and his successors for the time being, shall, and he and they is and are hereby required to pay the interest arising upon every such mortgage yearly, as the same shall become due, or within one month after, and also five pounds⁶ per centum per annum of the principal remaining due⁶ by yearly payments⁷; and that every such incumbent who shall not reside twenty weeks in each year upon such living, computing such year from the date of the said mortgage deed, shall, instead of the said sum of five pounds per centum per annum, pay the sum of ten pounds per centum per annum of the principal remaining due by yearly payments, such payments to be respectively made at the same time such interest shall be paid, until the whole principal money and interest shall be fully paid and dis-

Every incumbent who shall not reside 20 weeks in each year upon his living shall pay 10l. per cent. of the principal, &c.; and

⁵ See 1 & 2 Vict. c. 23, s. 1.

⁶ Amended by 21 Geo. 3, c. 66.

⁷ Repealed by 1 & 2 Vict. c. 23, s. 2.

*charged; and that every such incumbent who shall pay only every in-
five pounds per centum per annum of such principal money incumbent,
shall, at the time he pays the same, produce and deliver to paying
the mortgagee a certificate, under the hands of two rectors, only 5l.
vicars, or officiating ministers of some parishes near adjoining, per cent.
signifying that he had resided twenty weeks upon the said principal
living or benefice, within the year for which such payment to produce
became due, according to the regulations aforesaid; which a certifi-
certificate shall be in the form or to the effect contained in cate of his
the said schedule; and that every such incumbent shall, residence,
annually, at his own expense, from the time such buildings, under the
authorized to be made by this act, shall be completed, insure, hands
at one of the public offices established in London or West- of two
minster for insurance of houses and buildings, the house and rectors,
other buildings upon such glebe against accidents by fire, at &c., and as
such sum of money as shall be agreed upon by the ordinary, soon as the
patron, and incumbent; and in default of the payment of buildings
either the principal or interest in manner aforesaid, or neglect are com-
of the incumbent to make such insurance, the ordinary shall pleted to
have power to sequester the profits of the living till such insure
payment or insurance shall be made. them
against
fire.*

VII. And in order that the payment of such year may be Clause for
justly and equitably ascertained and adjusted between the propor-
successor and the parson, vicar, or incumbent, avoiding such tioning the
living or benefice by death or otherwise, or his representa- annual
tives in case of death or other avoidance, in such proportions payment
as the profits of such living shall have been received by them in case of
respectively for the year in which such death or avoidance death or
shall happen; be it further enacted, that in case any differ- other
ence shall arise in adjusting or settling the proportions afore- avoidance.
said, the same shall be determined by two indifferent persons,
the one to be named by the said successor, and the other by
the person making such avoidance, or his representatives in
case of his death; and in case such nominees shall not be
appointed within the space of two calendar months next after
such death or avoidance, or if they cannot agree in adjusting
such proportions within the space of one calendar month after
they shall have been appointed, the same shall be determined
by some neighbouring clergyman to be nominated by the
ordinary, whose determination shall be final and conclusive

between the parties ; which nominations and determinations shall be made according to the forms for that purpose contained in the said schedule, as near as conveniently may be.

The ordinary of any living worth 100*l.* per annum, which has no proper house of habitation, may (if the incumbent neglect to make application, &c.) procure an estimate, &c., and proceed in the execution of this act, in such manner as the parson is directed to proceed.

VIII. And be it further enacted, that where there shall be no house or habitation upon any ecclesiastical living or benefice, so described as aforesaid, exceeding in clear yearly value one hundred pounds per annum, or being one, the same shall be so mean, or in such a state of decay as aforesaid, and the incumbent shall not reside in the parish twenty weeks within any year, computing the same from the first day of January, it shall be lawful for the ordinary of such living or benefice, with the consent of the patron (in case the incumbent shall not think fit to lay out one year's income where the same may be sufficient to put the house and buildings in proper and sufficient repair, or to make such application as aforesaid for building, repairing, or rebuilding such parsonage house), to procure such plan, estimate, and certificate as herein directed, and at any time, within the course of the succeeding year, to proceed in the execution of the several purposes of this act, in such manner as the parson, vicar, or incumbent is hereby authorized and directed to proceed, and to make and execute such mortgage as aforesaid ; which shall be binding upon the incumbent and his successors, and he and they shall be and are hereby made liable to the payment of the interest, principal, and costs ; and every such incumbent, and his representatives, shall be and are hereby also made respectively liable to the proportion of the payments for the year which shall be growing at the time of the death of such incumbent, or avoidance of such living, according to the directions aforesaid ; which said interest, principal, and costs, and proportion of payments growing at the time of the death of such incumbent, or avoidance, shall and may be recovered against such incumbent, his successors or representatives respectively, by action of debt in any court of record.

All money received for dilapidations, &c., shall be applied in part

IX. And be it further enacted, that all sum and sums of money recovered or received, by suit or compositions, from the representatives of any former incumbent of such living or benefice, and not laid out in the repairs of such buildings, shall go and be applied in part of the payments under such

estimate as aforesaid; and that all money thereafter to be recovered or received, in case the same cannot be had before such buildings are completed, and the money paid for the same, shall be applied, as soon as received, in payment of the principal then due, as far as the same will extend; or, in case the said mortgage money shall have been discharged, all such money arising from dilapidations shall be paid into the hands of the nominee to be appointed as aforesaid, or of some other person or persons to be nominated by the ordinary, patron, and incumbent, in case such nominee shall be dead or shall decline to act therein, to be laid out and expended in making some additional buildings or improvements upon the glebe of such living or benefice, to be approved by the ordinary, patron, and incumbent; and in the mean time, or in case such buildings shall not be necessary, then in trust to lay out the same in government or other good securities, and pay the interest thereof to the incumbent for the time being.

of the
payments
under the
aforesaid
estimate;

or in
making
some
additional
improve-
ments, &c.

X. Provided always, and be it further enacted, that where new buildings are necessary to be provided or erected, for the habitation and residence of the rector, vicar, or other incumbent, pursuant to the authority hereby given, it shall and may be lawful for the ordinary, patron, and incumbent of every such living or benefice to contract, or to authorize, if they shall think fit, the person so to be nominated by them as aforesaid, to contract for the absolute purchase^a of any house or buildings, in a situation convenient for the habitation and residence of the rector or vicar of such living or benefice, and not at a greater distance than one mile from the church belonging to such living, benefice, or chapelry; and also to contract for any land adjoining or lying convenient to such house or building, or to the house or building belonging to any parochial living or benefice having no glebe lying near or convenient to the same, not exceeding two acres, if the annual value of such living, to be ascertained as aforesaid, shall be less than one hundred pounds per annum, nor two acres for every one hundred pounds per annum, if of greater value, and to cause the purchase-money for such house

Where new
buildings
are neces-
sary for the
residence
of the in-
cumbent,
the ordi-
nary, &c.,
may pur-
chase any
convenient
house
within one
mile of the
church,
and a
certain
portion
of land.

^a See 7 Geo. 4, c. 66, s. 1.

or buildings to be paid out of the money to arise under the powers and authorities of this act; in all which cases the said buildings and lands shall be conveyed to the⁹ patron of such living or benefice, and his heirs in trust, for the sole use and benefit of the rector, vicar, or other incumbent of such living or benefice for the time being, and their successors, and shall be annexed to such church or chapel, and be enjoyed and go in succession with the same for ever; but no contract so made by the nominee shall be valid until confirmed by the ordinary, patron, and incumbent, by writing under their hands; and every such purchase deed shall be in the form or to the effect contained in the schedule hereunto annexed, and shall be registered in such manner, and in such office, as the other deeds are hereby directed to be registered.

Purchase-money for such land to be raised by sale, &c. of part of the glebe or tithes.

XI. Provided also, and be it further enacted, that when any such land lying near to the parsonage-house and buildings belonging to such living or benefice, or to be so purchased or exchanged as aforesaid, shall be thought fit to be taken and used as a convenience for the same, the purchase-money or equivalent for such land shall be raised and had by sale or exchange of some part of the glebe or tithes of such living or benefice, which shall appear to the said ordinary, patron, and incumbent most convenient for that purpose; and every such sale or exchange shall be by deed, in the form or to the effect contained in the schedule hereunto annexed, and registered as hereinbefore directed.

Governors of Queen Anne's Bounty empowered to lend certain sums to promote the execution of this act.

XII. And be it further enacted, that it shall and may be lawful for the governors¹ authorized or appointed to regulate and superintend the bounty given by her late majesty Queen Anne, for the augmentation of the maintenance of the poor clergy, to advance and lend any sum or sums of money, not exceeding the sum of one hundred pounds, in respect of each living or benefice, out of the money which has arisen, or shall from time to time arise, from that bounty, for promoting and assisting the several purposes of this act, with respect to any such livings or benefices as shall not exceed the clear annual improved value of fifty pounds; and such mortgage

⁹ See 7 Geo. 4, c. 66, s. 1.

¹ See 1 & 2 Vict. c. 23, s. 24.

and security shall be made for the repayment of the principal sums so to be advanced as are hereinbefore mentioned, but no interest shall be paid for the same; and, in cases where the annual value of such living or benefice shall exceed the sum of fifty pounds, that it shall and may be lawful for the said governors to advance and lend, for the purposes of this act, any sum not exceeding two years' income of such living or benefice, upon such mortgage and security as aforesaid, and subject to the several regulations of this act, and to receive interest for the same, not exceeding four pounds for one hundred pounds by the year.

XIII. And be it further enacted, that it shall and may be lawful for any college or hall, within the universities of Oxford and Cambridge, or for any other corporate bodies possessed of the patronage of ecclesiastical livings or benefices, to advance and lend any sum or sums or money, of which they have the power of disposing, in order to aid and assist the several purposes of this act, for the building, rebuilding, repairing, or purchasing of any houses or buildings for the habitation and convenience of the clergy, upon livings or benefices under the patronage of such college or hall, upon the mortgage and security directed by this act for the repayment of the principal, without taking any interest for the same.

Colleges in Oxford and Cambridge and other corporate bodies, patrons of livings, may lend any sums without interest to aid the execution of this act.

XIV. And be it further enacted, that whenever the patron of any living or benefice, to which the provisions of this act are proposed to be extended, shall happen to be a minor, idiot, lunatic, or feme covert, it shall and may be lawful for the guardian, committee, or husband of every such patron who shall be bound thereby, in such manner as if he or she had been of full age, of sound mind, or feme sole, and had done such act, or given his or her consent thereto.

Who is to act for any patron who shall be a minor, lunatic, &c.

XV. Provided also, and be it further enacted, that all acts hereinbefore required to be done or consented to by the ordinary and patron shall be done by the ordinary alone, when such ordinary shall happen to be the patron of the living; and that no deed, bond, transfer, or other writing, instrument, or proceeding, made, had or done, under the powers or authority of this act, shall be charged or chargeable with any

Writings not liable to stamp-duty.

stamp-duty or fee of office, except as herein mentioned ; any law or statute to the contrary notwithstanding.

Proviso
when the
ordinary
shall be a
body cor-
porate, &c.

XVI. Provided always, and it is hereby further enacted, that in all cases where any act is required to be done by the ordinary, in the execution of any of the purposes of this act, and such ordinary shall be a body corporate aggregate, every such act shall be done and signified under the seal of such body corporate.

In certain
cases the
consent of
the rector,
&c., neces-
sary.

XVII. Provided always, and be it further enacted, that where the incumbent of any chapelry or perpetual cure shall be nominated by the rector or vicar of the parish wherein the same is situated, in every such case the consent of such rector or vicar, together with the consent of the patron of such rectory, shall be necessary in all such matters wherein the consent of the patron is required by the former provisions of this act.

Disputes
touching
the resi-
dence to
be deter-
mined by
the ordi-
nary.

*XVIII. *Provided likewise, and be it further enacted, that whenever any controversy or dispute shall arise touching the residence of the incumbent, with respect to any of the matters contained in this act, the same shall be adjusted and determined by the ordinary of the diocese.*

Patron, &c.
to make al-
lowance to
persons for
applying
the money,
&c.

XIX. Provided also, and be it further enacted, that it shall and may be lawful for the patron, ordinary, and incumbent of any such living or benefice as aforesaid, or any two of them, of which the ordinary to be one, by writing under their hands, to make such allowance to the person or persons to be nominated by them, for the purpose of paying and applying the money so to be raised as aforesaid, as they shall think fit, not exceeding the sum of five pounds for every one hundred pounds so to be laid out and expended as aforesaid.

In what
manner the
consent of
the Crown
shall be
made
known in
all cases
where the
patronage
shall be in
the Crown.

XX. Provided also, and be it further enacted, that in all cases where the patronage of any living or benefice hereinbefore described shall be in the Crown, and such living or benefice shall be above the yearly value of twenty pounds in the king's books, the consent of the Crown to the several proceedings hereby authorized respecting such living or benefice shall be signified by the Lord High Treasurer, or First Lord Commissioner of the Treasury for the time being ; but if such

² Repealed by 1 & 2 Vict. c. 23, s. 2.

living or benefice shall not exceed the value of twenty pounds in the king's books, such consent shall be signified by the Lord High Chancellor, Lord Keeper, or Commissioners of the Great Seal for the time being ; or if such living or benefice shall be within the patronage of the Crown in right of the Duchy of Lancaster, then such consent shall be signified by the Chancellor of the Duchy for the time being by writing under their respective hands, in the form or to the effect for that purpose contained in the schedule hereunto annexed ; and that in all such cases where such deed is hereby required to be executed by the patron as well as the ordinary and incumbent such deed shall be valid and effectual to all intents and purposes whatsoever, if executed by the ordinary and incumbent only, after such consent shall have been obtained as aforesaid from the said Lord High Treasurer, First Commissioner of the Treasury, Lord Chancellor, Lord Keeper, Lords Commissioners of the Great Seal, or Chancellor of the Duchy of Lancaster respectively, as the case shall be, provided such consent shall be registered at the register-office aforesaid.

XXI. And be it further enacted, that it shall and may be lawful for any archbishop or bishop of any diocese, and also for any ecclesiastical corporation, sole or aggregate, being lord or lords of any manor within which there shall be any waste or common lands, parcel of the demesnes of such manor, lying convenient for the house and buildings, and other the purposes of this act, to grant a part or parts of such waste or common lands in perpetuity for the several purposes of this act, leaving sufficient common for the several persons having right of common upon such wastes or commons, and obtaining the consent of the lessee of such lands, if the same shall be in lease.

Arch-
bishops,
&c., who
are lords
of manors
which con-
tain any
waste
lands con-
venient for
the pur-
poses of
this act,
may grant
a part
thereof in
perpe-
tuity, &c.

[The schedule to the act is omitted for the sake of brevity.]

21 GEORGE III. cap. 66*.

An Act to explain and amend an Act made in the Seventeenth Year of the Reign of His Present Majesty, intituled "An Act to promote the Residence of the Parochial Clergy, by making Provision for the more speedy and effectual building, rebuilding, repairing, or purchasing Houses, and other necessary Buildings and Tenements, for the Use of their Benefices."

Recital of
17 Geo. 3,
c. 53.

s. 6.

The incumbent
of every
living,
whereof
the glebes,
&c., have
been or
shall be

WHEREAS, by an act passed in the seventeenth year of the reign of his present Majesty, intituled "An act to promote the residence of the parochial clergy, by making provision for the more speedy and effectual building, rebuilding, repairing, or purchasing houses, and other necessary buildings and tenements, for the use of their benefices," it is enacted, amongst other things, that the incumbent of every living or benefice, of which the glebe, tithes, rents, and profits shall be mortgaged for the purposes of the said act, shall pay the interest arising upon every such mortgage yearly, as the same shall become due; and also five pounds per centum per annum, if such incumbent was resident, and ten pounds per centum per annum, if non-resident, of the principal remaining due, by yearly payments; which words, if literally understood and observed, would, contrary to the true intent and meaning of the said act, render the discharge of the principal sum impracticable, and thereby discourage persons from lending money upon such securities; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present parliament assembled, and by the authority of the same, that the incumbent of every living or benefice of which the glebes, tithes, rents, and profits have been or shall be mortgaged for the purposes of the said act, shall, from and after the passing of this act, well and truly pay, or cause to be paid, to every such mortgagee, over and besides the interest of the principal money due upon

* Extended by 1 & 2 Vict. c. 23.

such mortgage, the sum of five pounds per centum per annum, if resident, or ten pounds per centum per annum, if non-resident, of the money originally advanced upon such mortgage, until the whole of the said principal money shall be discharged; and if, upon any such mortgage or mortgages already made, less shall have been paid by the present incumbent than what is hereby directed to be paid, he shall and he is hereby required, within six months after the passing of this act, to make up the deficiency; and in default of payment thereof within the time aforesaid, the same shall be recovered in such and the same manner as the interest is recoverable by virtue of the provisions in the said recited act.

for the purposes of the recited act, shall pay to the mortgagee, besides interest, 5 per cent. per annum of the principal, if resident, or 10 per cent. if non-resident.

II. And be it further enacted, that the forms contained in the said schedule respecting the allowance of accounts, and the bond and receipt to be given by the nominee, directed by the said recited act, or forms to the like effect, shall be observed and complied with in the execution of this and the said recited act.

Forms in the schedule to be observed.

III. And be it further enacted, that this act, and every thing herein contained, shall be deemed, adjudged, and taken to be a public act, and shall be judicially taken notice of as such by all judges, justices, and other persons whomsoever, without specially pleading the same.

[The schedule to this act is omitted for the sake of brevity.]

43 GEORGE III. cap.^s107.

An Act for effectuating certain Parts of an Act passed in the Second and Third Years of the Reign of Her late Majesty Queen Anne, intituled "An Act for the making more effectual Her Majesty's gracious Intentions for the Augmentation of the Maintenance of the Poor Clergy, by enabling Her Majesty to grant in Perpetuity the Revenues of the First Fruits and Tenths; and also for enabling any other Persons to make Grants for the same Purpose," so far as the same relate to Deeds and Wills made for granting and bequeathing Lands, Tenements, Hereditaments, Goods, and Chattels, to the Governors of the Bounty of Queen Anne, for the Purposes in the said Act mentioned; and for enlarging the Powers of the said Governors.

2 & 3 Anne, c. 11, s. 4, by which persons were empowered to grant estates, &c. in their own right, to the governors of the bounty of Queen Anne, towards the augmentation of the maintenance of the clergy, WHEREAS, by an act made in the second and third years of the reign of her late majesty Queen Anne, intituled "An act for the making more effectual her Majesty's gracious intentions for the augmentation of the maintenance of the poor clergy, by enabling her Majesty to grant in perpetuity the revenues of the first fruits and tenths; and also for enabling any other persons to make grants for the same purpose;" after reciting, amongst other things, that for the encouragement of such well-disposed persons as should, by her Majesty's royal example, be moved to contribute to so pious and charitable a purpose, and that such their charity might be rightly applied, it was amongst other things enacted, that all and every person and persons having in his or their own right any estate or interest, in possession, reversion, or contingency, of or in any lands, tenements, or hereditaments, or any property of or in any goods or chattels, should have full power, licence, and authority, at his, her, and their will and pleasure, by deed enrolled in such manner and within such time as is directed by the statute made in the twenty-seventh year of the reign of King Henry the Eighth, for enrolment of bargains and sales, or by his, her, or their last will or testament in writing, duly executed according to law,

to give and grant to and vest in the corporation thereby authorized, and since erected under the name of "The Governors of the Bounty of Queen Anne," and their successors, all such his, her, or their estate, interest, or property in such lands, tenements, and hereditaments, goods, and chattels, or any part or parts thereof, for and towards the augmentation of the maintenance of such ministers officiating in such church or chapel where the Liturgy and rites of the said church were or should be so used or observed, as in the same act were mentioned, and having no settled competent provision belonging to the same; and to be for that purpose applied according to the will of the said benefactor, in and by such deed enrolled, or by such will or testament executed as aforesaid, expressed; and in default of such direction, limitation, or appointment, in such manner as by her Majesty's Letters Patent should be directed or appointed as aforesaid; and such corporation, and their successors, should have full capacity and ability to purchase, receive, take, hold, and enjoy for the purposes aforesaid, from such persons as should be so charitably disposed to give the same, any manors, lands, tenements, goods, or chattels, without any licence or writ of *ad quod damnum*, the statute of mortmain or any other statute or law to the contrary notwithstanding: And it was by the same act provided, that that act, or any thing therein contained, shall not extend to enable any person or persons being within age, or of non-sane memory, or women covert without their husbands, to make any such gift, grant, or alienation, any thing in that act contained to the contrary in anywise notwithstanding: And whereas the beneficial effect and operation of the said act have been considerably obstructed and retarded by an act passed in the ninth year of the reign of his late majesty King George the Second, intituled "An act to restrain the disposition of lands, whereby the same become unalienable;" for remedy thereof, be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present parliament assembled, and by the authority of the same, that so much of the said act of her late majesty Queen Anne, as is herein recited, shall be and remain in full force and effect, the said act of his late

shall remain in force, notwithstanding 9 Geo. 2, c. 36.

majesty King George the Second, or any other act or law to the contrary notwithstanding.

Power of exchanging lands, &c., under 1 Geo. 1, c. 10, extended to all the lands of augmented livings.

II. And whereas, by an act passed in the first year of the reign of his late majesty King George the First, intituled "An act for making more effectual her late Majesty's gracious intentions for augmenting the maintenance of the poor clergy," it was amongst other things enacted, That it should be lawful, with the concurrence of the said governors of the bounty of Queen Anne, and the incumbent, patron, and ordinary of any augmented living, or cure, to exchange all or any part of the estate settled for the augmentation thereof, for any other estate in lands or tithes of equal or greater value, to be conveyed to the same uses; be it also enacted, that the said power shall be, and the same is hereby extended to all the messuages, buildings, and lands belonging to every such augmented living or cure.

Where there is no suitable parsonage house, the governors may provide one.

III. And be it further enacted, That where a living shall have been or shall be augmented by the said governors, either by way of lot or benefaction, and there is no parsonage house suitable for the residence of the minister, it shall and may be lawful for the said governors, and they are hereby empowered, from time to time, in order to promote the residence of the clergy on their benefices, to apply and dispose of the money appropriated for such augmentation, and remaining in their hands, or any part thereof, in such manner as they shall deem most advisable, in or towards the building, rebuilding, or purchasing⁴ a house, and other proper erections within the parish, convenient and suitable for the residence of the minister thereof; which house shall for ever thereafter be deemed the parsonage-house appertaining to such living, to all intents and purposes whatsoever; any thing in any act or acts, or the rules of the said governors, contained to the contrary notwithstanding.

⁴ See 7 Geo. 4, c. 66, s. 1.

43 *GEORGE III. cap. 108.*

An Act to promote the building, repairing, or otherwise providing of Churches and Chapels, and of Houses for the Residence of Ministers, and the providing of Churchyards and Glebes.

WHEREAS a sufficient number of churches and chapels for the celebration of Divine service, according to the rites and ceremonies of the united church of England and Ireland, and of mansion-houses, with competent glebes for the residence of ministers officiating in such churches and chapels, is necessary towards the promotion of religion and morality : And whereas the same are either wholly wanting or materially deficient in many parts of England and Ireland : And whereas many well-disposed persons would be desirous of contributing towards the supply of such defects, if they were enabled so to do in the manner hereinafter directed : May it therefore please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present parliament assembled, and by the authority of the same, that all and every person and persons^a having in his or their own right any estate or interest in possession, reversion, or contingency, or in any lands or tenements, or of any property of or in any goods or chattels, shall have full power, licence and authority, at his and their will and pleasure, by deed inrolled in such manner and within such time as is directed in England by the statute made in the twenty-seventh year of the reign of King Henry the Eighth, and in Ireland by the statute made in the tenth year of the reign of King Charles the First, for enrolment of bargains and sales, or by his, her, or their last will or testament, in writing, duly executed according to law, such deed, or such will or testament, being duly executed three calendar months at least before the death of such

Persons
may by
deed or
will give
lands not
exceeding
5 acres, or
goods and
chattels
not exceed-
ing 500*l.*,
for the
purposes
of this act.

^a Extended by 51 Geo. 3, c. 115, to the Crown.

grantor or testator (including the days of the execution and death), to give and to grant to, and vest in any person or persons, or body politic or corporate, and their heirs and successors respectively, all such his, her, or their estate, interest, or property in such lands or tenements, not exceeding five acres, or goods and chattels, or any part or parts thereof, not exceeding in value five hundred pounds, for or towards the erecting, rebuilding, repairing, purchasing, or providing any church or chapel where the Liturgy and rites of the said united church are or shall be used or observed, or any mansion-house for the residence of any minister of the said united church, officiating, or to officiate in, any such church or chapel; or of any outbuildings, offices, churchyard, or glebe for the same respectively, and to be for those purposes applied, according to the will of the said benefactor in and by such deed enrolled, or by such will or testament, executed as aforesaid, expressed, the consent and approbation of the ordinary being first obtained; and in default of such direction, limitation, or appointment, in such manner as shall be directed and appointed by the patron and ordinary, with the consent and approbation of the parson, vicar, or other incumbent; and such person and persons, bodies politic and corporate, and their heirs and successors respectively, shall have full capacity and ability to purchase, receive, take, hold, and enjoy for the purposes aforesaid, (as well from such persons as shall be so charitably disposed to give the same, as from all other persons as shall be willing to sell or aliene to such person or persons, bodies politic or corporate,) any lands or tenements, goods or chattels, without any licence or writ of *ad quod damnum*, the statute of mortmain, or any other statute or law to the contrary notwithstanding:

But such powers not to extend to persons within age, insane, or *femes covert*.

Only one such gift shall be made by

Provided always, that this act, or any thing therein contained, shall not extend to enable any person or persons being within age, or of non-sane memory, nor women covert without their husbands, to make any such gift, grant, or alienation; any thing in this act contained to the contrary in anywise notwithstanding.

II. Provided also, and it is hereby further enacted, that no more than one such gift or devise shall be made by any one person; and that if any such gift or devise as aforesaid

shall happen to exceed five acres in lands or tenements, or the value of five hundred pounds in goods and chattels, every such gift or devise shall be good and valid to the extent aforesaid; and it shall be lawful for the Lord Chancellor for the time being, on petition, to make order for reducing every such gift or devise to and within the said limits, and for allotting such specific five acres, and if occasion should require, such specific goods and chattels, as in his judgment shall be most convenient, and to make such further order touching the premises as to him shall appear just and reasonable.

III. Provided also, that no glebe containing upwards of fifty acres shall be augmented with more than one acre under or by virtue of this act, but that the excess, if any, given or devised for the purpose of such augmentation, shall be reduced in manner aforesaid by the said Lord Chancellor, and such order thereupon shall be by him made as hereinbefore is directed in the case of an excess beyond five acres.

IV. And whereas it often happens that small plots of land held in mortmain lie convenient to be annexed to some such church or chapel, or house of residence as aforesaid, or to some churchyard or curtilage thereto belonging, or convenient to be employed as the site of some such church or chapel, or house to be hereafter erected, and for the necessary and commodious use and enjoyment thereof, and that they might be so employed to the advantage of the public, and without detriment to the proprietors thereof, if they were enabled to give and grant the same for the purposes aforesaid; be it therefore further enacted, that it shall be lawful for every body politic or corporate, sole or aggregate, by deed enrolled as aforesaid, with or without confirmation, as the law may require, to give and grant, either by way of exchange or benefaction, any such small plot of land not exceeding one acre, to any person or persons, body politic or corporate, his and their heirs and successors respectively, to be held, used, and applied for the purposes aforesaid; and such last-mentioned person and persons, bodies politic and corporate, and their heirs and successors respectively, shall have full capacity and ability, with consent

of the incumbent, patron, and ordinary, to take, hold, and enjoy such small plot of land for the purposes aforesaid, without any licence or writ of *ad quod damnum*, the statute of mortmain, or any other act or law to the contrary notwithstanding.

Accommodation to be provided for persons resorting to church, &c.

V. Provided also, and it is hereby further enacted and declared, that in every parochial church or chapel hereafter to be erected, ample provision shall be made for the decent and suitable accommodation of all persons, of what rank or degree soever, who may be entitled to resort to the same, and whose circumstances may render them unable to pay for such accommodation.

Rights of giving or devising not affected.

VI. Provided also, that nothing in this act contained shall be construed to take away or abridge any right of giving or devising which already exists in any person whatsoever.

51 GEORGE III. cap. 115.

An Act for amending the Act Forty-third George Third to promote the building, repairing, or otherwise providing the Churches and Chapels, and of Houses for the Residence of Ministers, and the providing of Churchyards and Glebes.

43 Geo. 3, c. 108.

WHEREAS by an act passed in the forty-third year of his present Majesty's reign, intituled "An act to promote the building, repairing, or otherwise providing of churches and chapels, and of houses for the residence of ministers, and the providing of churchyards and glebes," it was enacted, That every person and persons having in his or their own right any estate or interest in possession, reversion, or contingency of or in any lands or tenements, or of any property of or in any goods or chattels, should have full power, licence, and authority, by deed enrolled, in such manner, and within such time as is directed in England by the statute made in the twenty-seventh year of the reign of King Henry the Eighth, and in Ireland by the statute made in the tenth year of the reign of King Charles the First, for enrolment of bargains and sales; or by his, her, or their last will or testament in writing,

duly executed according to law, such deed or such will or testament being duly executed three calendar months at least before the death of such grantor or testator, including the days of the execution and death, to give and grant to and vest in any person or persons, or body politic or corporate, and their heirs and successors respectively, all such his, her, or their estate, interest, or property in such lands or tenements not exceeding five acres, or goods and chattels, or any part or parts thereof, not exceeding in value five hundred pounds, for or towards the erecting, rebuilding, repairing, purchasing, or providing any church or chapel where the liturgy and rites of the said united church are or shall be used or observed, or any mansion-house for the residence of any minister of the said united church, officiating or to officiate in any such church or chapel, or of any outbuildings, offices, churchyard, or glebe for the same respectively, and to be for those purposes applied according to the will of the said benefactor in and by such deed enrolled, or by such will or testament, executed as aforesaid, expressed (the consent and approbation of the ordinary being first obtained), and in default of such direction, limitation, or appointment, in such manner as shall be directed and appointed by the patron and ordinary, with the consent and approbation of the parson, vicar, or other incumbent; and such person and persons, bodies politic and corporate, and their heirs and successors respectively, should have full capacity and ability to purchase, receive, take, hold, and enjoy for the purposes aforesaid, as well from such persons as shall be so charitably disposed to give the same, as from all other persons as shall be willing to sell or aliene to such person or persons, bodies politic or corporate, any lands or tenements, goods or chattels, without any licence or writ of *ad quod damnum*: And whereas doubts have arisen whether the powers and provisions of the said act will enable his Majesty to make any such grant for the purposes before mentioned: And whereas it is expedient that the powers of the said act should be extended for that purpose; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present parliament assembled, and by the authority

His Majesty may vest lands in any person for building or repairing any church or chapel, or any house for the residence of a minister.

of the same, that the King's most excellent Majesty, his heirs and successors, shall have full power, licence, and authority, by deed or writing under the great seal, or under the seal of his duchy and county palatine of Lancaster, to give and grant and vest in any person or persons, bodies politic or corporate, and their heirs and successors respectively, all such his, her, or their estate, interest, or property in any lands or tenements within the survey of the Court of Exchequer, or of the duchy of Lancaster, for or towards the erecting, rebuilding, repairing, purchasing, or providing any church or chapel where the liturgy and rites of the said united church are or shall be used or observed, or any mansion-house for the residence of any minister of the said united church officiating or to officiate in any such church or chapel, or of any outbuildings, offices, churchyard or glebe for the same respectively, and to be for those purposes applied in and by such deed as aforesaid expressed, the consent and approbation of the ordinary being first obtained, and such person and persons, bodies politic and corporate, and their heirs and successors respectively, shall have full capacity and ability to receive, take, hold, and enjoy, for the purposes aforesaid, any lands or tenements, notwithstanding the statute of mortmain, or the act of the first year of her late Majesty Queen Anne, intituled "An act for the better support of her Majesty's household, and the honour and dignity of the crown," or any other act or acts, or other impediment or disability whatsoever: Provided always, that nothing in this act contained shall extend or be construed to extend to enable his Majesty, his heirs and successors, to grant more than five acres in any one grant for any of the purposes aforesaid, or to alter or amend any of the provisions of the said act of the forty-third year of his present Majesty, which are not hereinbefore specially named and mentioned.

1 Anne,
c. 7.

No grant
to exceed
5 acres.

Any person
having the
fee simple
of any
manor
may grant
5 acres
of the
waste for
ecclesias.

II. And be it further enacted, by the authority aforesaid, that it shall be lawful for any person or persons, bodies politic or corporate, seised of or entitled to the entire and absolute fee simple of any manor, by deed, under the hand and seal, or hands and seals, of any such person or persons, and under the seal or seals of any such body or bodies politic or corporate, and enrolled in the Court of Chancery,

to grant to the rector, vicar, or other minister of any parish church and his successors, or to the curate or minister of any chapel and his successors, any parcel or parcels of land not exceeding in the whole the quantity of five statute acres, parcel of the waste of such manor, and lying within the parish where such church or chapel shall be or shall be intended to be erected, or within any extra-parochial district wherein any such chapel shall be or shall be intended to be erected, for the purpose of erecting thereon or enlarging any such church or chapel, or for a churchyard or burying-ground, or enlarging a churchyard or burying-ground for such parish or extra-parochial place, or for a glebe for the rector, vicar, curate, or other minister of any such church or chapel, to erect a mansion-house or other buildings thereon, or make other conveniences for the residence of such rector, vicar, curate, or other minister, freed and absolutely discharged of and from all rights of common thereon, and any statute prohibiting any alienation in mortmain, or other statute, law, or custom to the contrary notwithstanding: Provided always, that no grant whatsoever shall be made of any land whatsoever, for any of the purposes authorized by this act, unless the church or chapel, for the benefit whereof, or of the minister whereof, such grant shall be made, shall be a parochial church or chapel for the service of the united church of England and Ireland, duly authorized by law, or a church or chapel duly consecrated for the service of such church, or erected or to be erected for such purpose, by and with the licence and consent of the ordinary of the diocese wherein the same shall be.

tical purposes.

Grants restricted to parochial churches or chapels.

55 GEORGE III. cap. 147 *.

An Act for enabling Spiritual Persons to exchange the Parsonage or Glebe Houses or Glebe Lands, belonging to their Benefices, for others of greater Value, or more conveniently situated for their Residence and Occupation; and for annexing such Houses and Lands, so taken in exchange, to such Benefices, as Parsonage or Glebe Houses and Glebe Lands, and for purchasing and annexing Lands to become Glebe in certain Cases, and for other purposes.

WHEREAS in divers ecclesiastical benefices, perpetual curacies, and parochial chapelries, the glebe lands, or some part or parts thereof, lie at a distance from and are inconvenient to be occupied with the parsonage or glebe houses; and the parsonage or glebe houses of divers benefices, perpetual curacies, and parochial chapelries, are mean, and inconvenient; and it would often tend much to the comfort and accommodation, and thereby also to promote the residence of the incumbents of such benefices, perpetual curacies, and parochial chapelries, if the glebe lands and parsonage or glebe houses thereof could be by law exchanged for other lands of greater value, or more conveniently situated, and for other and more convenient houses: And whereas there are also divers lands and tenements which have been accustomed to be granted or demised by the incumbent for the time being of certain ecclesiastical benefices, perpetual curacies, or parochial chapelries, for one, two, or three lives, or for a term or terms of years absolutely or determinable on a life or lives, as being holden by copy of court roll or otherwise, under some manor or lordship belonging to such benefices, perpetual curacies, or parochial chapelries, and it would therefore be advantageous to the said benefices if the same lands and tenements, or some of them, or some part thereof, were annexed as glebe to the living or benefice to which they belong: May it therefore please your Majesty that it

* Amended by 56 Geo. 3, c. 52; 1 Geo. 4, c. 6; 6 Geo. 4, c. 8.

may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this act it shall be lawful for the parson, vicar, or other incumbent for the time being, of any ecclesiastical benefice, perpetual curacy, or parochial chapelry, by deed indented, and to be registered in manner hereinafter mentioned, and with the consent of the patron of such benefice, perpetual curacy, or parochial chapelry, and of the bishop of the diocese wherein the same is locally situate (to be signified as hereinafter is mentioned), to grant and convey to any person or persons, and to his, her, or their heirs and assigns, or otherwise, as he or they shall direct or appoint, or to any corporation, sole or aggregate, and his or their successors, the parsonage or glebe house, and the outbuildings, yards, gardens, and appurtenances thereof, and the glebe lands, and any pastures, feedings, or rights of common, or way appendant, appurtenant, or in gross, or any or either of such house, outbuildings, yards, gardens, and glebe lands, pastures, feedings, or rights of common or way, or any part or parts thereof, belonging to any such benefice, perpetual curacy, or parochial chapelry, in lieu of and in exchange for any house, outbuildings, yards, gardens, and appurtenances, and any lands, or any or either of them, whether lying within the local limits of such benefice, perpetual curacy, or parochial chapelry, or not, but so as that the same be situate conveniently for actual residence or occupation by the incumbent thereof, the same also being of greater value or more conveniently situated than the premises so to be given in exchange, and being of freehold tenure, or being copyhold of inheritance, or for life or lives, holden of any manor belonging to the same benefice, and also for the parson, vicar, or incumbent for the time being of the same benefice, perpetual curacy, or parochial chapelry, by the same or a like deed, and with the like consent, and testified as aforesaid, to accept and take in exchange to him and his successors for ever, from any person or persons, or corporation, sole or aggregate, any other house, outbuildings, yards, gardens, easements, and appurtenances, and any other lands,

Power to
exchange
parsonage-
houses and
glebe lands
for other
houses and
lands.

or any or either of such house, outbuildings, yards, gardens, lands, easements, and appurtenances, the same respectively being of freehold tenure, or being copyhold of inheritance or for life or lives, holden of any manor belonging to the same benefice⁷, and being of greater value or more conveniently situated, in lieu of and in exchange for such parsonage or glebe house, outbuildings, yards, gardens, glebe lands, and appurtenances, and such pastures, feedings, and rights of common or way, or any or either of them, so to be granted and conveyed, and which said house, outbuildings, yards, gardens, lands, and appurtenances so to be accepted and taken in exchange, by any parson, vicar, or other incumbent, shall for ever, from and after such grant and conveyance thereof, be the parsonage and glebe house and glebe lands and premises of the said benefice, perpetual curacy, or parochial chapelry, to all intents and purposes whatsoever, and shall become annexed to the said benefice, perpetual curacy, or parochial chapelry, to all intents and purposes whatsoever, and be holden and enjoyed by such incumbent and his successors accordingly, without any licence or writ of *ad quod damnum*; and that the whole or any part or parts of the said house, outbuildings, lands and premises so to be annexed, which before such annexation were of copyhold tenure, shall for ever, from and after such annexation, become and be of freehold tenure, the statute of mortmain, or any other statute or law to the contrary notwithstanding: Provided always, that nothing in this act contained shall extend or be construed to authorize the granting or conveying in exchange by any parson, vicar, or other incumbent, either at one and the same time, and by one and the same incumbent, or at different times, and by several incumbents, and in several portions, any greater quantity in the whole than thirty statute acres⁸ of the glebe lands of any benefice, perpetual curacy, or parochial chapelry: Provided also, that in all cases when such exchange shall be made by any owner or owners having any less estate or interest than in fee

⁷ Extended to copyholds of inheritance of any manor by 6 Geo. 4, c. 8, s. 3.

⁸ Extended to any quantity by 6 Geo. 4, c. 8, s. 2.

simple of or in the messuage, buildings, lands, and premises so to be by him, her, or them granted or conveyed in exchange, or being any corporation aggregate or sole, or person or persons under any legal disability, the parsonage-house, outbuildings, and glebe lands respectively to be so taken in exchange as aforesaid, shall at the time of making such exchange be of equal value with, or not of less value than the said messuage, buildings, lands, and premises respectively so to be granted and conveyed in exchange to such parson, vicar, or other incumbent.

II. Provided always, that in all cases where the lands, or Premises any part or parts thereof, to be conveyed in exchange to any given in parson, vicar, or incumbent, and to be annexed as glebe to exchange to be sub- any benefice, perpetual curacy, or parochial chapelry, under subject to the authority of this act, shall either separately or jointly the same tithes, &c., with other lands or tenements, be, at the time of such con- as thoseveyance, by any means whatsoever, exempt or discharged taken in from the render of tithes in kind, or subject to or covered by exchange (except in any modus, composition real, or prescription in lieu of tithes certain cases). in kind, then the lands or premises to be conveyed in exchange by such parson, vicar, or incumbent, and which before such exchange were glebe, of or belonging to the same benefice, perpetual curacy, or parochial chapelry, shall (unless it be agreed between the parties to such exchange that the same shall become and be subject to the render or payment of tithes in kind) from and immediately after such conveyance in exchange (in case such first-mentioned lands are situate in the same parish, vicarage, or parochial chapelry, with the said lands or premises before glebe thereof, or belonging thereto, but not otherwise), become and be either exempt or discharged from tithes in kind, in like manner with, or [as the case may be] subject to or covered by the same modus, composition real, or prescription in lieu of tithes in kind, as the lands so to be conveyed in exchange to the said parson, vicar, or incumbent were exempt or discharged from, or subject to, or covered by, before such exchange was made.

III. Provided also, and be it further enacted, that no After the incumbent of any benefice, perpetual curacy, or parochial exchange the incum- chapelry, wherein or in respect whereof any such exchange bent not to be evicted.

as is authorized by this act shall have taken place, or his successors, shall at any time thereafter be evicted or ejected from the peaceable and quiet possession and enjoyment of the house, outbuildings, land, and premises, or any of them, which shall have been granted and conveyed in exchange to such incumbent, according to the provisions of this act, by or by reason or in consequence of any person or persons, or corporation sole or aggregate, claiming right thereto, through any title prior to that of or through any defect of title of the person or persons, or corporation sole or aggregate, granting or conveying the same in exchange; but nevertheless that it shall and may be lawful for such person or persons, or corporation, claiming such right, and he, she, or they is and are hereby authorized and empowered to have, use, exercise, and enjoy all such and the same powers and remedies in trying his, her, or their right to, and in obtaining and recovering possession of any house, outbuildings, land, and premises, or any of them, which shall have been granted in exchange by any such incumbent, as the person or persons, or corporation sole or aggregate, so claiming would, in case this act had not been made, have been enabled to use, exercise, and enjoy in trying the right to and in recovering and obtaining possession of the house, outbuildings, lands, and premises, or any of them, in exchange for which the same shall have been so granted and conveyed by any such incumbent, under the authority of this act.

Power to annex premises belonging to manors, and heretofore grantable and demisable as copyhold or otherwise.

IV. And be it further enacted, that from and after the passing of this act, it shall and may be lawful to and for the parson, vicar, or other incumbent of any ecclesiastical benefice, perpetual curacy, or parochial chapelry, of or to which benefice, perpetual curacy, or parochial chapelry, any manor or lordship is parcel or appurtenant, and as parcel of or belonging to which manor or lordship any lands or tenements are or have been usually granted or demised, or grantable or demisable by copy of court roll, or otherwise, for any life or lives, or for any term or number of years absolutely or determinable on any life or lives, by deed indented (and to be registered as hereinafter mentioned), with the consent of the patron and bishop (to be testified as hereinafter mentioned), to annex to the said benefice, perpetual curacy, or parochial

chapelry, as and for glebe land, or parsonage or glebe house or houses and buildings thereof, all or any part or parts of such lands or tenements, whether lying within the local limits of such benefice, perpetual curacy, or parochial chapelry, or not, and that from and after such annexation the said lands and tenements so annexed shall cease to be thereafter grantable or demisable by any incumbent of the said benefice, perpetual curacy, or parochial chapelry (otherwise than as glebe lands are or shall be by law grantable or demisable), but shall from thenceforth be and become, and be deemed and taken to be the glebe lands and parsonage or glebe house or houses of and annexed to such benefice, perpetual curacy, or parochial chapelry, for ever, to all intents and purposes whatsoever, without any licence or writ of *ad quod damnum*, the statute of mortmain, or any other statute or law to the contrary notwithstanding: Provided always, that no such annexation shall in anywise annul, determine, or affect any grant or demise then previously made and actually existing of the said lands and tenements so to be annexed as last aforesaid.

Such annexation not to annul existing grants or demises.

V. And whereas it is expedient to enlarge and amend the laws now in being for providing parsonage houses with suitable outbuildings and other accommodations for the residence of the clergy, by way of benefaction; be it further enacted, that where there shall be no existing parsonage or glebe house on any ecclesiastical benefice, perpetual curacy, or parochial chapelry, or where the existing parsonage or glebe house, or the outbuildings thereof, on any such benefice, perpetual curacy, or parochial chapelry, shall be inconvenient or too small or incommodiously situate, it shall be lawful, from and after the passing of this act, for any person or persons, being owners in fee simple, or for any corporation sole or aggregate, with or without confirmation, as the case may require, and by and with such consent, and to be signified as hereinafter mentioned, of the incumbent, patron, and bishop, to give, grant, and convey, by deed indented, and to be registered as hereinafter is mentioned, to any parson, vicar, or other incumbent of such benefice, curacy, or chapelry, for the time being, who shall also have power to accept the same, any messuage, outbuildings, yard, garden, orchard, and croft,

Power to annex parsonage-houses, &c., by benefaction.

or any of them, with their appurtenances, or any right of way, or other easement, whether lying within the local limits of such benefice, perpetual curacy, or parochial chapelry or not, but so as that the same be conveniently situate for actual residence or occupation by the incumbent thereof; and which messuage, outbuildings, yard, garden, orchard, and croft, with their appurtenances or right of way, or other easement, shall for ever from and after such grant and conveyance thereof be and become annexed to and be deemed and taken to be the parsonage or glebe house, outbuildings, yard, garden, orchard, croft, appurtenances, and right of way, or other easement, of the said benefice, curacy, or chapelry, to all intents and purposes whatsoever, and be holden and enjoyed by the said incumbent and his successors accordingly, without any licence or writ of *ad quod damnum*, the statute of mortmain, or any other statute or law to the contrary notwithstanding; and from and after such grant and annexation it shall be lawful for the incumbent for the time being of the said benefice, curacy, or chapelry, to which such grant and annexation shall have been made (with the consent in writing of such patron and bishop under their hands and seals to be duly registered as hereinafter is mentioned), to take down and remove any parsonage or glebe house, and outbuildings, or any part thereof, which before such annexation belonged to the said benefice, curacy, or chapelry (if the same or part thereof cannot be better applied to the permanent advantage of such benefice, curacy, or chapelry), and with the like consent as aforesaid, to apply the materials, or the produce thereof, if sold, towards some lasting improvement of the said benefice, curacy, or chapelry: provided always, that nothing herein contained shall extend to enable any persons, being infants or lunatics, or femmes covert without their husbands, to make any such gift, grant, or conveyance; any thing in this act contained to the contrary in anywise notwithstanding.

Recital of
statute
17 Geo. 3,
c. 53.

VI. And whereas an act was passed in the seventeenth year of the reign of his present Majesty, intituled "An act to promote the residence of the parochial clergy, by making provision for the more speedy and effectual building, rebuilding, repairing, or purchasing houses, and other necessary

buildings and tenements, for the use of their benefices :” And whereas one other act was passed in the twenty-first year of 21 Geo. 3, the reign of his present Majesty, intituled “ An act to explain ^{c. 66.} and amend an act made in the seventeenth year of the reign of his present Majesty, intituled an act to promote the residence of the parochial clergy, by making provision for the more speedy and effectual building, rebuilding, repairing, or purchasing houses, and other necessary buildings and tenements for the use of their benefices :” And whereas there are many ecclesiastical benefices, perpetual curacies, and parochial chapelries to which no glebe land, or only a small portion of glebe land is belonging ; and it is therefore expedient to enable the making provision by purchase, for the annexation of glebe land to such benefices, perpetual curacies, and parochial chapelries ; be it therefore further enacted, that from and after the passing of this act it shall be lawful for the parson, vicar, or other incumbent for the time being, of any ecclesiastical benefice, perpetual curacy, or parochial chapelry, the existing glebe whereof shall not exceed five statute acres, with the consent of the patron and bishop, to be signified as hereinafter mentioned, to purchase any lands not exceeding in the whole twenty statute acres, with the necessary outbuildings thereon, whether being within the local limits of the said benefice, perpetual curacy, or parochial chapelry, or not, but so as that the same be situate conveniently for building a parsonage or a glebe house, and outbuildings, and for gardens and glebe thereof, or for any of the said purposes, and for actual residence and occupation by the incumbent thereof, such land being of freehold tenure, or being copyhold of inheritance, or for life or lives, holden of any manor or lordship belonging to the same benefice, perpetual curacy, or parochial chapelry ; and which lands so purchased shall for ever, from and after the grant and conveyance thereof, be and become annexed to and glebe of such benefice, perpetual curacy, or parochial chapelry, to all intents and purposes whatsoever, and be holden and enjoyed by such incumbent, and his successors accordingly, without any licence or writ of *ad quod damnum* ; and the whole or any part or parts of the said lands, which before such annexation were or was of copyhold tenure, shall

Power to
purchase
land,

to be an-
nexed to
benefices
as glebe
land
thereof.

Copyhold
land so

purchased to be holden as freehold ; for ever, from and after such annexation, become and be of freehold tenure ; the statute of mortmain or any other statute or law to the contrary notwithstanding.

VII. And, for better effectuating such purchases as aforesaid, be it further enacted, that it shall be lawful for such parson, vicar, or other incumbent for the time being, with the consent of the patron and bishop (to be signified as hereinafter is mentioned), to borrow and take up at interest (over and besides the monies authorized to be borrowed under the authority and for the purposes of the said recited act of the seventeenth year of the reign of his present Majesty) such sum or sums of money as shall be certified by a valuation upon oath of some skilful and experienced surveyor to be the true and just value of the said lands at the time of the purchase thereof, not exceeding two years' clear income and produce of such benefice, perpetual curacy, or parochial chapelry, after deducting all taxes and other outgoings whatever, except the salary to the assistant curate (if any) ; and as a security for repayment of the money so to be borrowed, to mortgage the tithes, rents, and other profits and emoluments of or belonging to such benefice, perpetual curacy, or parochial chapelry, to any person or persons who shall advance such money by one or more deed or deeds (to be registered as hereinafter mentioned), for the term of twenty-five years, or until the principal money so to be borrowed, with interest for the same, and all costs and charges attending the recovery thereof, shall be fully paid off and satisfied ; which mortgage deed or deeds shall bind, as well such parson, vicar, or other incumbent of such benefice, perpetual curacy, or parochial chapelry, executing such mortgage or mortgages, as also his successors, and a counterpart thereof shall be executed by the mortgagee or mortgagees, and be kept by the incumbent ; and the parson, vicar, or incumbent for the time being of such benefice, perpetual curacy, or parochial chapelry, shall and he is hereby required to pay or cause to be paid to the mortgagee or mortgagees yearly and every year, as the same shall become due, or within one month afterwards, as well the interest of the principal money secured by such mortgage or mortgages, as also the further sum of five pounds per centum per annum

not exceeding two years' net income.

of the principal money originally advanced on such mortgage or mortgages; and that every incumbent who shall not reside twenty weeks in every year upon such benefice, perpetual curacy, or parochial chapelry, computing each year from the date of the first or only mortgage deed, shall and he is hereby required, instead of the said sum of five pounds per centum per annum, to pay within the period aforesaid, the sum of ten pounds per centum per annum of the principal money originally advanced on such mortgage or mortgages, until the whole of such principal money, with the interest, costs, and charges shall be fully paid off and discharged; and that every such incumbent, who shall pay only five pounds per centum per annum of such principal money, shall, at the time of payment thereof, produce and deliver to the mortgagee a certificate under the hands of two rectors, vicars, or other officiating ministers of some parishes near adjoining, signifying that he had resided twenty weeks upon the said benefice, perpetual curacy, or parochial chapelry, within the year for which such payment became due; and in default of payment of the principal, interest, costs, and charges in manner aforesaid, the bishop shall have power to sequester the profits of such benefice, perpetual curacy, or parochial chapelry, until such payment shall be made; and if at any time or times the said principal and interest, or any part thereof, shall be in arrear and unpaid for the space of forty days next after the yearly day of payment whereon the same shall have become due, it shall be lawful for the mortgagee or mortgagees, and his, her, or their executors, administrators, or assigns, to recover the same, or such part thereof as shall be so unpaid, and the costs and charges attending such recovery, by distress and sale, in such manner as landlords are or shall be by law authorized to recover rents in arrear; and in order that the payment of the same principal and interest may, in cases of avoidance by death or otherwise, be justly and equitably ascertained and adjusted between the parson, vicar, or incumbent avoiding such benefice, perpetual curacy, or parochial chapelry, or his representatives, and his successor, in such proportions as the profits of such benefice, perpetual curacy, or parochial chapelry, shall have been received by them respectively for

the year in which such death or avoidance shall happen, such payment shall, in case any difference shall arise in settling the proportions thereof, be ascertained and determined by two indifferent persons, the one to be named by the person making such avoidance, or his representatives in case of his death, and the other by the said successor; and in case such nominees shall not be appointed within the space of two calendar months next after such death or avoidance, or in case they shall not agree in settling such proportions within the space of one calendar month after they shall have been appointed, the same shall be determined by some neighbouring clergyman to be nominated by the bishop, whose determination shall be final and conclusive between the parties.

Governors
of Queen
Anne's
Bounty
empowered
to lend
money.

VIII. And be it further enacted, that for promoting the purposes of this act, it shall and may be lawful for the governors of the bounty of Queen Anne for the augmentation of the maintenance of the poor clergy from and out of the monies which have arisen or shall from time to time arise from that bounty, to advance and lend, in respect of each benefice, perpetual curacy, or parochial chapelry, the clear annual improved value whereof shall not exceed the sum of fifty pounds, any sum not exceeding the sum of one hundred pounds, without interest, but for repayment of the principal whereof such mortgage as is hereinbefore mentioned shall be executed; and also to advance or lend, for or in respect of each benefice, perpetual curacy, or parochial chapelry, the clear annual improved value whereof shall exceed the sum of fifty pounds, any sum not exceeding two years yearly income of such benefice upon such mortgage as aforesaid, and to receive interest for the same at any rate not exceeding four pounds per centum per annum.

Colleges
may lend
any sum
with or
without
interest.

IX. And be it further enacted, that it shall and may be lawful for any college or hall within the universities of Oxford or Cambridge, or for any other corporate bodies, being owners of the patronage of ecclesiastical livings or benefices, to advance and lend any sum or sums of money of which they have the power to dispose, for the convenience of the parson, vicar, or other incumbent for the time being of any benefice, perpetual curacy, or parochial chapelry within the patronage

of such college or hall, upon mortgage as hereinbefore directed, either upon interest or without any interest.

X. Provided always, and be it further enacted, that when any parson, vicar, or other incumbent as aforesaid, shall be desirous of effecting any exchange, purchase, or mortgage under the provisions of this act, the consent of the patron and bishop to every deed of exchange, conveyance, or mortgage shall, before the same shall be signed and sealed by the parson, vicar, or other incumbent, be signified by the said patron and bishop respectively, being made parties to, and signing and sealing the said deed in the presence of two or more credible persons, who shall, by indorsement thereon, attest such signing and sealing, and in which attestation it shall be expressed that the same deed was so signed and sealed by such patron and bishop before the execution thereof by such parson, vicar, or other incumbent.

XI. And whereas there are within divers dioceses certain exempt jurisdictions called peculiars, belonging to the archbishops and bishops of other dioceses, and it is expedient that all the powers and authorities given by this act to the bishop of the diocese should, as to such peculiars, be given to the archbishop or bishop to whom the same respectively belong; be it therefore further enacted, that all and every the powers and authorities given by this act to the bishop of any diocese shall, with respect to the several peculiars locally situated within such diocese, be vested in and exercised by the archbishop or bishop to whom such peculiars shall respectively belong, and not by the bishop within whose diocese such peculiars shall be locally situated, but that within all and every peculiar and peculiars belonging to any other person or corporation than archbishops or bishops, such powers and authorities shall be vested in and exercised by the bishop of the diocese within which such peculiars shall be locally situated.

XII. And be it further enacted, that from and after the passing of this act it shall and may be lawful to and for any owner or owners of any messuages, buildings, lands, or hereditaments, whether such owner or owners shall be a corporation sole or aggregate, or tenant or tenants in fee simple, or in fee tail general or special, or for life or lives, and for the

guardians, trustees, or feoffees for charitable or other uses, husbands or committees of or acting for any such owner or owners as aforesaid, who at the time of making any exchange or purchase authorized by this act shall be respectively infants, femmes covert, or lunatics, or under any other legal disability, or otherwise disabled to act for themselves, himself, or herself, by deed or deeds indented, and to be registered as hereinafter is mentioned; and with such consent, and to be signified as hereinbefore is mentioned, of such incumbent and of the patron and bishop, to grant and convey to any parson, vicar, or other incumbent for the time being of any ecclesiastical benefice, perpetual curacy, or parochial chapelry, any messuage, outbuildings, yards, gardens, and lands, with their appurtenances, or any messuage or outbuildings only, or any lands (with or without necessary outbuildings) only, of such owner or owners, in lieu of and in exchange for any parsonage-house, outbuildings, yards, gardens, and glebe lands, and pastures, feedings, and rights of common, or any of them, or any part thereof, of or belonging to any such benefice, perpetual curacy, or parochial chapelry, or (in cases of purchase) to sell and convey to such parson, vicar, or other incumbent, any lands not exceeding in the whole twenty statute acres, with the necessary outbuildings thereon, for such sum or sums of money as shall be certified to be the true and just value of the same at the time of such sale thereof, by a valuation to be made as hereinafter is directed; and which said parsonage-house, outbuildings, and glebe lands so to be granted and conveyed in exchange by any parson, vicar, or other incumbent (with such consent and in such manner as aforesaid), shall for ever, from and after such grant or conveyance thereof, be and become vested in and settled upon the same person or persons, and to, for, and under the same uses, estates, trusts, and limitations, and subject to the same powers, conditions, charges, and incumbrances as the said messuage, outbuildings, lands, and premises so to be granted and conveyed in exchange were vested in, settled upon, and subject to, before such exchange thereof, or would have been vested in, settled upon, and subject to, in case such exchange had not been made; and which said sum or sums of money to be received for the

Premises
exchanged
to be
settled
to the
same uses.

Applica-
tion of

purchase of any lands or hereditaments shall, in all cases where the lands or hereditaments so to be purchased belong to any corporation sole or aggregate, infant, feme covert, lunatic, or person or persons under any other disability or incapacity, with all convenient speed be paid into the Bank of England, in the name and with the privity of the Accountant-general of the High Court of Chancery, to be placed to his account *ex parte* the person or persons or corporation, who would have been entitled to the rents, issues, and profits of such lands or hereditaments, to the intent that such money shall be applied or laid out under the direction, and with the approbation of the said court (to be signified by an order made upon a petition to be preferred by or on behalf of the person or persons who would have been entitled to the rents, issues, and profits of such lands or hereditaments), in the purchase of the land-tax, or towards the payment of any debts or incumbrances affecting the same lands or hereditaments, or other lands or hereditaments standing settled to the same or the like uses, or in the purchase of other lands or hereditaments to be conveyed, settled, and made subject to and for and upon such and the like uses, trusts, limitations, and dispositions, and in the same manner as the lands or hereditaments so purchased as aforesaid stood settled or limited, or such of them as at the time of making such purchase and conveyance shall be existing undetermined and capable of taking effect: and in the meantime, and until such purchase shall be made, the said money shall, by order of the said Court of Chancery upon application thereto, be invested by the said Accountant-general, in his name, in some one of the public funds of this kingdom; and the dividends and annual produce thereof shall from time to time be paid, by order of the said court, to the person or persons who would have been entitled to the rents, issues, and profits of the said lands or hereditaments, in case no purchase and conveyance thereof had been made under the provisions of this act.

XIII. Provided always, and be it further enacted, that nothing herein contained shall extend, or be construed to extend, to enable any corporation aggregate or sole, or tenant in fee-tail general or special, or for live or lives, or the guar-

purchase-
moneys of
premises
sold.

Persons
under legal
incapacity
not to con-
vey (except

in ex-
change)
more than
5 acres.

dians, trustees, or feoffees for charitable or other uses, husbands, or committees, of or acting for any such owner or owners as aforesaid, who at the time of making any sale authorized by this act shall be respectively infants, femmes covert, or lunatics, or under any other legal disability, or otherwise disabled to act for themselves, himself, or herself, to sell or convey (except by way of exchange, as in manner by this act directed) any lands or grounds whatsoever, for any of the purposes of this act, exceeding the quantity of five statute acres.

Where ex-
change or
purchase
shall be
made,
notice to
be pre-
viously
given.

XIV. Provided also, that in all cases where any exchange or purchase shall be made under the authority of this act, six^o calendar months' previous notice, describing the particulars, extent, and situation of the premises respectively to be given and taken in exchange or purchased, shall be given of the intention to make such exchange or purchase, by the insertion of the same notice, for three successive weeks in some one and the same newspaper of and in general circulation in each county wherein the premises so to be given and taken in exchange or purchased, or any part thereof, are situate; and also by affixing such notice, in writing, on a conspicuous part of the door of the church or chapel of each parish or chapelry wherein such premises, or any part thereof, are situate, on three Sundays successively whereon divine service shall be performed, and shortly before the commencement of such service on each Sunday in such church or chapel.

A map and
valuation
on actual
survey to
be made of
the pre-
mises to be
given and
taken in
exchange
or pur-
chased.

XV. And be it further enacted, that whenever any exchange or purchase is intended to be made under the authority of this act, a map or maps under an actual survey, or oath (which oath any justice of the peace is hereby authorized to administer) by some competent surveyor, to be approved of by the patron, bishop, and incumbent, shall in cases of exchange be made and taken of the whole of the said glebe lands, or of such part or parts thereof as will sufficiently enable the bishop to judge of the convenience and expediency of the proposed exchange, and also of the glebe or parsonage-house, buildings, and premises, any part of which it is proposed to exchange, as well as of the other lands, house, buildings,

^o Only three months' notice required (6 Geo. 4, c. 8, s. 3).

and premises, proposed to be taken in exchange ; and shall, in cases of purchase, be made and taken of the whole of the lands or hereditaments so to be purchased : and, in cases of exchange, the same surveyor shall in like manner make a valuation, on oath (to be administered as aforesaid), of the said glebe lands and glebe or parsonage house, buildings, and premises, and also of the lands, house, buildings, and premises intended to be taken in exchange ; and in cases of purchase, the same surveyor shall in like manner make a valuation, on oath, of the lands, or hereditaments so intended to be purchased ; and every such valuation shall include and distinctly specify the value of all timber and other trees growing thereon, and of the rights of common, and of all mines, minerals, and quarries (if any), and of all other rights, profits, and advantages whatsoever (if any) to the said premises, or either of them, or any part or parcel of the same respectively belonging.

XVI. Provided also, and be it further enacted, that in all cases, as well of exchange as of purchase under this act, the bishop, on receiving such map or maps and valuation, shall, if he shall in the first instance so far approve of the said exchange or purchase, Bishop to issue a commission of inquiry. issue a commission of inquiry under his hand and seal, directed to such persons as he shall think proper, not being fewer than six in number, and of whom three at the least shall be beneficed clergymen actually resident in the neighbourhood of the benefice, perpetual curacy, or parochial chapelry, whereto it shall be proposed to annex any buildings or lands by exchange or purchase under the authority of this act, and of whom one shall be a barrister-at-law, of three years' standing at the least, to be named by the senior judge in the last preceding commission of *nisi prius*¹ for the county in which the said benefice, perpetual curacy, or parochial chapelry, shall be situate ; and the return to which commission of inquiry shall be made and signed by a majority of the persons therein named, after an actual inspection by them of all the premises, with such map and valuation before them, and not otherwise ; and three at least of the persons making and signing the same shall be either three such beneficed clergymen, actually resident as afore-

¹ See 56 Geo. 3, c. 52, s. 2 ; 1 Geo. 4, c. 6, s. 1 ; 6 Geo. 4, c. 8, s. 1.

said, or two at least of such beneficed clergymen, resident as aforesaid, together with such barrister as aforesaid: and in no case whatever shall any exchange or purchase be effected under the authority of this act, unless such commission shall have been previously issued and returned, and unless the return to such commission, so made and signed as aforesaid, shall certify that after an actual inspection and examination of the premises, such exchange or purchase, in the judgment of the persons making the said return, is fit and proper to be made, and will promote the permanent advantage or convenience of the incumbent of such benefice, perpetual curacy, or parochial chapelry, and his successors in the same.

Consent
for patrons
in case of
minority,
lunacy, or
marriage.

XVII. And be it further enacted, that whenever the patron of any benefice, perpetual curacy, or parochial chapelry, to which the provisions of this act extend, shall happen to be a minor, idiot, lunatic, or feme covert, it shall and may be lawful for the guardian, committee, or husband of every such patron, to transact the several matters, and execute the requisite deeds as aforesaid, for such patron; who shall be bound thereby in such manner as if he or she had been of full age or sound mind, or feme sole, and had done such acts and executed such deeds.

Consent
where
livings
belong to
the Crown
or to the
Duchy of
Lancaster.

XVIII. Provided also, and be it further enacted, that in all cases where the patronage of any benefice, perpetual curacy, or parochial chapelry, to which the provisions of this act extend, shall be in the Crown, and such living or benefice shall be above the yearly value of twenty pounds in the King's books, the consent of the Crown to the several proceedings hereby authorized respecting such benefice, perpetual curacy, or parochial chapelry, shall be signified by the execution of the deeds or instruments hereinbefore directed, by the Lord High Treasurer or First Lord Commissioner of the Treasury for the time being; but if such benefice, perpetual curacy, or parochial chapelry shall not exceed the yearly value of twenty pounds in the King's books, such consent shall be signified by such execution by the Lord High Chancellor, Lord Keeper, or Lords Commissioners of the Great Seal for the time being; and if such benefice, perpetual curacy, or parochial chapelry shall be within the patronage of the Crown, in right of the Duchy of Lancaster, then such consent shall

be signified by the execution of such deeds or instruments by the chancellor of the said Duchy for the time being.

XIX. And be it further enacted, that one part of all deeds and instruments to be made and executed in pursuance of or for carrying into execution this act, together with the maps and valuations, and the commissions of inquiry and the returns to the same, hereinbefore directed, shall, within twelve calendar months next after the date or dates thereof, be deposited in the office of the registrar of the diocese wherein such benefice, perpetual curacy, or parochial chapelry shall be locally situate, to be perpetually kept and preserved therein, except as to those benefices which are under the peculiar jurisdiction of any archbishop or bishop, in which case the several documents before mentioned shall be deposited in the office of the registrar of that peculiar jurisdiction, to which any such benefice, perpetual curacy, or parochial chapelry shall be subject; and such registrars shall respectively so deposit and preserve the same, and shall give and sign a certificate of such deposit thereof, to be written on a duplicate, or on any other part or parts of the said deeds, or any or either of them, or on some other separate parchment, paper, or instrument; and every such deed or instrument shall be produced at all proper and usual hours at such registry, to every person applying to inspect the same; and an office copy of each such deed or instrument, certified under the hand of the registrar (and which office copy so certified the registrar shall in all cases grant to every person who shall apply for the same), shall in all cases be admitted and allowed as legal evidence thereof in all courts whatsoever; and every such registrar shall be entitled to the sum of ten shillings, and no more (over and besides the stamp duty, if any), for such commission, and the previous requisites thereof; and the sum of five shillings, and no more, for so depositing as aforesaid the deeds, settlements, map, survey, valuation, commission, and instruments, and so aforesaid certifying such deposit thereof; and the sum of one shilling, and no more, for each such search; and the sum of sixpence, and no more (over and besides the said stamp-duty), for each folio, of seventy-two words, of each such office copy so certified as aforesaid.

Deeds and instruments to be deposited in the archbishop's or bishop's registry.

Forms in
schedule
17 Geo. 3,
c. 53, and
21 Geo. 3,
c. 66, to be
used.

XX.² *And be it further enacted, that such of the forms contained in the schedules of the said recited acts of the seventeenth and twenty-first years of the reign of his present Majesty, as are applicable to the provisions of this act, and with such variations thereof as shall render them so applicable, shall be used and applied to the purposes of this act, as fully and effectually as if the same were hereby enacted and made part of this act.*

This act
not to
repeal any
former
law.

XXI. Provided always, and it is hereby declared, that nothing in this act contained shall extend or be construed to repeal or abridge any law now in force, enabling any person or corporation, sole or aggregate, to augment or improve any ecclesiastical benefice, perpetual curacy, or parochial chapelry.

[This act was amended by acts 56 Geo. 3, c. 52, 1 Geo. 4, c. 6, and 6 Geo. 4, c. 8; but as exchanges are now more conveniently and inexpensively effected by the instrumentality of the Inclosure Commissioners, it is deemed to be unnecessary to insert them.]

59 GEORGE III. cap. 60.

An Act to permit the Archbishops of Canterbury and York, and the Bishop of London, for the time being, to admit Persons into Holy Orders specially for the Colonies.

WHEREAS it is expedient that the archbishops and bishops of this realm should from time to time admit into holy orders persons specially destined for the cure of souls in his Majesty's foreign possessions, although such persons may not be provided with the title required by the canon of the church of England, of such as are to be made ministers: And whereas it will greatly tend to the advancement of religion within the same that due provision shall be regularly made for a supply of persons properly qualified to serve as parsons,

² Repealed by 1 Geo. 4, c. 6, s. 2.

vicars, curates, or chaplains; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this act it shall be lawful for the Archbishop of Canterbury, the Archbishop of York, or the Bishop of London, for the time being, or any bishop specially authorized and empowered by any or either of them, to admit into the holy orders of deacon or priest any person whom he shall, upon examination, deem duly qualified specially for the purpose of taking upon himself the cure of souls, or officiating in any spiritual capacity in his Majesty's colonies or foreign possessions, and residing therein, and that a declaration of such purpose, and a written engagement to perform the same, under the hand of such person, being deposited in the hands of such archbishop or bishop, shall be held to be a sufficient title with a view to such ordination, and that in every such case it shall be distinctly stated in the letters of ordination of every person so admitted to holy orders, that he has been ordained for the cure of souls in his Majesty's foreign possessions.

Arch-
bishop of
Canter-
bury or
York, or
Bishop of
London, or
any bishop
specially
authorized
by any of
them, may
ordain
specially
for the
colonies.

The fact to
be stated in
the letters
of ordina-
tion.

II. Provided always, and be it further enacted by the authority aforesaid, that no person so admitted into the holy orders of deacon or priest for the purpose of taking upon himself the cure of souls or officiating in any spiritual capacity in his Majesty's foreign possessions, shall be capable of having, holding, or enjoying, or of being admitted to any parsonage, vicarage, benefice, or other ecclesiastical promotion or dignity whatsoever, within the United Kingdom of Great Britain and Ireland, or of acting as curate therein, without the previous consent and approbation, in writing, of the bishop of the diocese under his hand and seal, in which any such parsonage, vicarage, benefice, or other ecclesiastical promotion or dignity shall be locally situated, nor without the like consent and approbation of such one of the said archbishops, or bishop of London, by whom or by whose authority such person shall have been originally ordained, or in case of the demise or translation of such archbishop or bishop, of his successor in the same see: Provided always, that no such consent and approbation shall be given by any

No person
so ordained
capable of
holding a
living in
Great
Britain or
Ireland
without
the con-
sent of
the bishop
of the dio-
cese, &c.

Certificate
of good
behaviour

to be produced.

such archbishop or bishop of London, unless the party applying for the same shall first produce a testimony of his good behaviour during the time of his residence abroad, from the bishop in whose diocese he may have officiated, or in case there be no bishop, from the governor in council of the colony in which he may have been resident, or from his Majesty's principal secretary of state for the colonial department.

Persons ordained by the bishops of Quebec, Nova Scotia, or Calcutta, equally restrained.

III. And be it further enacted, that from and after the passing of this act, no person who shall have been admitted into holy orders by the bishops of Quebec, Nova Scotia, or Calcutta, or by any other bishop or archbishop than those of England or Ireland, shall be capable of officiating in any church or chapel of England or Ireland without special permission from the archbishop of the province in which he proposes to officiate, or of having, holding, or enjoying, or of being admitted to any parsonage or other ecclesiastical preferment in England or Ireland, or of acting as curate therein, without the consent and approbation of the archbishop of the province, and also of the bishop of the diocese in which any such parsonage or ecclesiastical preferment or curacy may be situated.

Persons ordained by a colonial bishop not possessing or residing in a diocese, &c., not to be capable of holding preferment or acting as a minister of the established church. Admissions to benefices, and appointments to curacies, contrary hereto void.

IV. Provided always, that no person who after the passing of this act shall have been ordained a deacon or priest by a colonial bishop, who at the time of such ordination did not actually possess an episcopal jurisdiction over some diocese, district, or place (or was not actually residing within such division, district, or place), shall be capable in any way, or on any pretence whatever, of at any time holding any parsonage or other ecclesiastical preferment within his Majesty's dominions, or of being a stipendiary curate or chaplain, or of officiating at any place, or in any manner, as a minister of the established church of England and Ireland.

V. And be it further enacted, that all admissions, institutions, and inductions to benefices in the church of England or church of Ireland, and all appointments to act as curates therein, which shall be made contrary to the provisions of this act, shall be to all intents and purposes null and void: Provided always, that nothing herein shall be construed to make void any admission, institution, or induction to any

benefice, or any appointment as curate, which shall have been made previous to the passing of this act.

VI. Provided always, that nothing in this act contained shall be construed to affect or to repeal any of the provisions of an act passed in the twenty-sixth year of the reign of his present Majesty, intituled "An act to empower the archbishop of Canterbury, or the archbishop of York, for the time being, to consecrate to the office of a bishop persons being subjects or citizens of countries out of his Majesty's dominions." Act not to affect or to repeal 26 Geo. 3, c. 84.

7 GEORGE IV. cap. 66.

An Act to render more effectual the several Acts now in force to promote the Residence of the Parochial Clergy, by making Provision for purchasing Houses and other necessary Buildings for the Use of their Benefices.

WHEREAS in and by an act of parliament passed in the 17 Geo. 3, seventeenth year of the reign of his majesty King George c. 53. the Third, intituled "An act to promote the residence of the parochial clergy, by making provision for the more speedy and effectual building, rebuilding, repairing, or purchasing houses and other necessary buildings and tenements for the use of their benefices," it was enacted, that where new buildings were necessary to be provided or erected for the habitation and residence of the rector, vicar, or other incumbent of any ecclesiastical living, parochial benefice, chapelry, or perpetual curacy, pursuant to the authority thereby given, it should be lawful for the ordinary, patron, and incumbent of every such living or benefice to contract, or to authorize, if they should think fit, the person to be nominated under the provisions of the said act to contract, for the absolute purchase of any house or buildings in a situation convenient for the habitation and residence of the rector, vicar, or other incumbent of such living or benefice, and not at a greater distance than one mile from the church belonging to such living, and also to contract for any land adjoining or lying

convenient to such house or building, or to the house or building belonging to any parochial living or benefice having no glebe lying near or convenient to the same, not exceeding the quantity thereby limited, and to cause the purchase money for such house or buildings to be paid out of the money to arise under the powers and authorities of the said act; in all which cases the said buildings and lands should be conveyed to the patron of such living or benefice, and his heirs, in trust for the sole use and benefit of the rector, vicar, or other incumbent of such living or benefice for the time being, and their successors, and should be annexed to such church or chapel, and be enjoyed and go in succession with the same for ever; but no contract so made by the nominee should be valid until confirmed by the ordinary, patron, and incumbent, by writing under their hands; and every such purchase deed was to be in the form or to the effect contained in the schedule to the said act annexed, and should be registered in such manner and in such office as other deeds were thereby directed to be registered: And whereas an act was passed in the twenty-first year of the reign of his said late Majesty, to explain and amend the said first-mentioned act: And whereas in and by an act of Parliament passed in the forty-third year of his said late Majesty's reign, intituled "An act for effectuating certain parts of an act passed in the second and third years of the reign of her late majesty Queen Anne, intituled 'An act for the making more effectual her Majesty's gracious intentions for the augmentation of the maintenance of the poor clergy, by enabling her Majesty to grant in perpetuity the revenues of the first fruits and tenths, and also for enabling any other persons to make grants for the same purpose,' so far as the same relate to deeds and wills made for granting and bequeathing lands, tenements, hereditaments, goods, and chattels to the governors of the bounty of Queen Anne, for the purposes in the said act mentioned; and for enlarging the powers of the said governors:" it was enacted that where a living should have been or should be augmented by the said governors, either by way of lot, or benefaction, and there was no parsonage house suitable for the residence of the minister, it should be lawful for the said governors, and they were thereby em-

21 Geo. 3,
c. 66.

43 Geo. 3,
c. 107.

powered, from time to time, in order to promote the residence of the clergy on their benefices, to apply and dispose of the money appropriated for such augmentation, and remaining in their hands, or any part thereof, in such manner as they should deem most advisable, in or towards the building, rebuilding, or purchasing a house and other proper erections within the parish, convenient and suitable for the residence of the minister thereof, which house should for ever thereafter be deemed the parsonage-house appertaining to such living to all intents and purposes whatsoever: And whereas in and by an act of parliament passed in the fifty-fifth year of the reign of his said late Majesty, intituled "An act for ^{55 Geo. 3,} enabling spiritual persons to exchange the parsonage or glebe ^{c. 147.} houses or glebe lands belonging to their benefices for others of greater value, or more conveniently situated for their residence and occupation; and for annexing such houses and lands so taken in exchange to such benefices, as parsonage or glebe houses and glebe lands; and for purchasing and annexing lands to become glebe in certain cases; and for other purposes;" it was enacted, that from and after the passing of the said act it should be lawful to and for any owner or owners of any messuages, buildings, lands, or hereditaments, whether such owner or owners should be a corporation sole or aggregate, or tenant or tenants in fee simple, or in fee tail general or special, or for life or lives, and for the guardians, trustees, or feoffees for charitable or other uses, husbands, or committees of or acting for any such owner or owners as aforesaid, who at the time of making any exchange or purchase authorized by the said act should be respectively infants, feme coverts, or lunatics, or under any other legal disability, or otherwise disabled to act for themselves, himself, or herself, by deed or deeds indented, and to be registered as therein mentioned, and with such consent, and to be signified as therein mentioned, of such incumbent and of the patron and bishop, to grant and convey to any parson, vicar, or other incumbent for the time being of any ecclesiastical benefice, perpetual curacy, or parochial chapelry, any messuage, outbuildings, yards, gardens, and lands, with their appurtenances, or any messuage or outbuildings only, or any lands (with or without necessary outbuildings) only,

of such owner or owners, in lieu of and in exchange for any parsonage-house, outbuildings, yards, gardens, and glebe lands, and pastures, feedings, and rights of common or any of them, or any part thereof, of or belonging to any such benefice, perpetual curacy, or parochial chapelry, or (in cases of purchase) to sell and convey to such parson, vicar, or other incumbent, any lands, not exceeding in the whole twenty statute acres, with the necessary outbuildings thereon, for such sum or sums of money as should be certified to be the true and just value of the same at the time of such sale thereof, by a valuation to be made as therein directed ; which said sum or sums of money to be received for the purchase of any lands or hereditaments should, in all cases where the lands or hereditaments so to be purchased belonged to any corporation sole or aggregate, infant, feme covert, lunatic, or person or persons under any other disability or incapacity, with all convenient speed to be paid into the Bank of England, in the name and with the privity of the accountant-general of the High Court of Chancery, to such account, and applied or laid out in such manner and for such purposes, and the interest and annual produce thereof to be paid to such persons, as in and by the said act appointed and directed : And whereas the provisions of the said last recited act have been extended to Ireland by an act passed in the fourth year of the reign of his present Majesty, intituled " An act to amend the laws for collecting church rates, and money advanced by the trustees and commissioners of the first fruits of ecclesiastical benefices, and for the improvement of church lands, in Ireland ;" and also by an act passed in the fifth year of his present Majesty's reign, intituled " An act to amend an act of the last session of parliament, for amending the laws for the improvement of church lands in Ireland : " And whereas several acts were passed in the fifty-sixth year of the reign of his said late Majesty, and in the first and sixth years of the reign of his present Majesty, to amend the said act of the fifty-fifth year of his late Majesty's reign : And whereas the means of providing houses and buildings for the residence and occupation of the parochial clergy are still in many cases insufficient, by reason that the powers given to owners of houses, buildings, and lands, by the said act of the fifty-fifth year of his late

4 Geo. 4,
c. 86.

5 Geo. 4,
c. 8.

56 Geo. 3,
c. 52.
1 Geo. 4,
c. 6.
6 Geo. 4,
c. 8.

Majesty's reign, if under any disability or incapacity to convey, authorize the sale of land only, and the exchange only of houses and buildings; and that although power to purchase houses and buildings is given by the said acts of the seventeenth and forty-third years of his late Majesty's reign, the owners thereof, if under any such disability or incapacity, are not empowered to sell and convey the same; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the passing of this act it shall and may be lawful to and for any owner or owners of any messuages, buildings, or lands, which may be purchased under the authority of the said acts of the seventeenth and forty-third and fifty-fifth years of his late Majesty's reign, or either of them, whether such owner or owners shall be a corporation sole or aggregate, or tenant or tenants in fee simple or in fee tail, general or special, or for life or lives, and for the guardians, trustees, or feoffees for charitable or other uses, husbands or committees of or acting for any such owner or owners as aforesaid, who shall be respectively infants, feme coverts, or lunatics, or under any other legal disability, or otherwise disabled to act for themselves, himself, or herself, to sell such messuages, buildings, and lands, or any of them, for the purposes of the said acts or either of them, and to convey the same in manner hereinafter mentioned; and all messuages, buildings, and lands, which shall be purchased under the authority of this act, or of the said acts of the seventeenth, forty-third, and fifty-fifth years of his late Majesty's reign, or either of them, shall be conveyed unto and to the use of the parson, vicar, or other incumbent of the benefice, curacy, or chapelry, for the residence and occupation of the parson, vicar, or other incumbent whereof the same shall be purchased, and shall for ever, from and after the conveyance thereof, be and become annexed to the same benefice curacy, or chapelry, and be holden and enjoyed by the parson, vicar, or other incumbent thereof, and his successors, accordingly, without any licence or writ of *ad quod damnum*, the statute of mortmain, or any other statute or law to the contrary notwithstanding; and a copy of every

Corporations and persons under disability or incapacity authorized to sell messuages, lands, &c., for the purposes of recited acts.

Convey-
ance to be
registered.

such conveyance of any messuage, buildings, or lands, the purchase-money whereof shall be raised under the powers of the said act of the seventeenth year of his late Majesty's reign, shall be registered as by the said act is directed with respect to conveyances thereby authorized.

Such mes-
suages,
lands, &c.,
to be sur-
veyed, and
the map
and valua-
tion veri-
fied on
oath and
preserved.

II. Provided always, and be it further enacted, that in every case in which any messuage, buildings, or lands shall be sold under the authority of this act, by any owner or owners, having any less estate or interest in the same than in fee simple, or by any corporation aggregate or sole, or person or persons, under any legal disability, a map and plan thereof, under an actual survey and a valuation thereof, shall be made and taken by some competent surveyor, and verified upon oath to be taken before some justice of the peace, which oath any justice of the peace is hereby authorized to administer; and such map, plan, and valuation, and the affidavit verifying the same, shall be annexed to and preserved with the conveyance.

Applica-
tion of
purchase-
money.

III. Provided also, and be it further enacted, that in every case in which a sale and conveyance shall be made under the authority of this act, of any messuages, buildings, or lands which shall belong to any corporation aggregate or sole, or tenant in fee tail, general or special, or for life or lives, infant, feme covert, lunatic, or person or persons under any other legal disability, or otherwise disabled to act for themselves, himself, or herself, the purchase-money for the same shall, with all convenient speed, be paid into the Bank of England, or the Bank of Ireland, as the case may be, in the name and with the privity of the Accountant-general of the High Court of Chancery of England or Ireland, as the case may be, to be placed to his account *ex parte* the person or persons or corporation who would have been entitled to the rents, issues, and profits of such messuages, buildings, or lands; to the intent that such money shall be applied or laid out under the direction and with the approbation of the said Court of Chancery of England or Ireland [to be signified by an order to be made upon a petition to be preferred by or on behalf of the person or persons who would have been entitled to the rents, issues, and profits of such messuages, buildings, or lands], in the purchase of the land tax, or

towards the payment of any debts or incumbrances affecting the same messuages, buildings, or land, or other lands or hereditaments standing settled to the same or the like uses, or in the purchase of other lands or hereditaments, to be conveyed, settled, and made subject to and for and upon such and the like uses, trusts, limitations, and dispositions, and in the same manner as the messuages, buildings, or lands, so purchased as aforesaid, stood, settled, or limited, or such of them as at the time of making such purchase and conveyance shall be existing undetermined and capable of taking effect; and in the mean time and until such purchase shall be made the said money shall, by order of the said Court of Chancery of England or Ireland, upon application thereto, be invested by the Accountant general in his name in some one of the public funds of England or Ireland, and the dividends and annual produce thereof shall from time to time be paid, by order of the said court, to the person or persons who would have been entitled to the rents, issues, and profits of the said messuages, buildings, or lands, in case no purchase and conveyance thereof had been made under the provisions of this act.

9 GEORGE IV. cap. 94¹.

An Act for rendering valid Bonds, Covenants, and other Assurances, for the Resignation of Ecclesiastical Preferments, in certain specified Cases.

WHEREAS it is expedient that certain bonds, covenants, and other assurances for the resignation of ecclesiastical preferments, should be rendered valid in the cases and subject to the limitations hereinafter specified; be it therefore enacted

¹ As to engagements to resign made prior to 9th April, 1827, see act 7 & 8 Geo. 4, c. 25, intituled "An act for the relief of certain spiritual persons and patrons of ecclesiastical preferments from certain penalties, and rendering valid certain bonds, covenants, or other assurances for the resignation of ecclesiastical preferments."

Engage-
ments
entered
into for the
resigna-
tion of
any bene-
fice upon
notice or
request to
be valid.

Proviso.

Relation-
ship of
such
persons.

No pre-
sentation
to any
spiritual
office shall

by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present parliament assembled, and by the authority of the same, that every engagement by promise, grant, agreement, or covenant, which shall be really and *bona fide* made, given, or entered into at any time after the passing of this act, for the resignation of any spiritual office, being a benefice with cure of souls, dignity, prebend, or living ecclesiastical, to the intent or purpose, to be manifested by the terms of such engagement, that any one person whosoever, to be specially named and described therein, or one of two persons to be specially named and described therein, being such persons as are hereinafter mentioned, shall be presented, collated, nominated, or appointed to such spiritual office, or that the same shall be given or bestowed to or upon him, shall be good, valid, and effectual in the law to all intents and purposes whatsoever, and the performance of the same may also be enforced in equity: provided always, that such engagement shall be so entered into before the presentation, nomination, collation, or appointment of the party so entering into the same as aforesaid.

II. Provided always, and be it further enacted, that where two persons shall be so specially named and described in such engagement, each of them shall be, either by blood or marriage, an uncle, son, grandson, brother, nephew, or grand-nephew of the patron or of one of the patrons of such spiritual office, not being merely a trustee or trustees of the patronage of the same, or of the person or one of the persons for whom the patron or patrons shall be a trustee or trustees, or of the person or one of the persons by whose direction such presentation, collation, gift, or bestowing shall be intended to be made, or of any married woman whose husband in her right shall be the patron or one of the patrons of such spiritual office, or of any other person in whose right such presentation, collation, gift, or bestowing shall be intended to be made.

III. And be it further enacted, that no presentation, collation, gift, or bestowing to or of any such spiritual office or upon any spiritual person, to be made after the passing of this act, nor any admission, institution, investiture, or induc-

tion thereupon, shall be void, frustrate, or of no effect in law for or by reason of any such engagement so to be made, given, or entered into by such spiritual person, or any other person or persons, to or with the patron or patrons of such spiritual office, or to or with any other person or persons, for the resignation of the same as aforesaid; and that it shall not be lawful for the King's most excellent Majesty, his heirs or successors, for or by reason of any such engagements as aforesaid, to present or collate unto, or give or bestow such spiritual office; and that such spiritual person, and patron or patrons, or other person or persons respectively, shall not be liable to any pains, penalty, forfeitures, loss, or disability, nor to any prosecution or other proceeding, civil, criminal, or penal, in any court, ecclesiastical or temporal, for or by reason of his, her, or their having made, given, or entered into, or accepted or taken such engagement as aforesaid; and that every such presentation or collation, or gift or bestowing, to be made after the passing of this act, and every admission, institution, investiture, and induction thereupon, shall be as valid and effectual in the law to all intents and purposes whatsoever as if such engagement had not been made, given, or entered into, or accepted or taken; any thing in an act passed in the thirty-first year of the reign of her late Majesty Queen Elizabeth, intituled "An act against abuses in elections of scholars and presentations to benefices," or in any other act, statute, or canon, or any law to the contrary in anywise notwithstanding.

be void
by reason
of such
agreement
to resign.

Persons
making
such
agreement
not to be
liable to
penalty.

Such pre-
sentations
to be valid.

31 Eliz.
c. 6.

IV. Provided always, and be it further enacted, that nothing in this act shall extend to the case of any such engagement as aforesaid, unless one part of the deed, instrument, or writing by which such engagement shall be made, given, or entered into, shall, within the space of two calendar months next after the date thereof, be deposited in the office of the registrar of the diocese wherein the benefice with cure of souls, dignity, prebend, or living ecclesiastical, for the resignation whereof such engagement shall be made, given, or entered into as aforesaid, shall be locally situate, except as to such benefices with cure of souls, dignities, prebends, or livings ecclesiastical, as are under the peculiar jurisdiction of any archbishop or bishop, in which case such document

Not to extend to any engagement, unless the deed be deposited within two months with the registrar of the diocese or peculiar jurisdiction wherein the benefice is situated.

as aforesaid shall be deposited in the office of the registrar of that peculiar jurisdiction to which any such benefice with cure of souls, dignity, prebend, or living ecclesiastical, shall be subject; and such registrars shall respectively deposit and preserve the same, and shall give and sign a certificate of such deposit thereof; and every such deed, instrument, or writing shall be produced at all proper and usual hours at such registry to every person applying to inspect the same; and an office copy of each such deed, instrument, or writing, certified under the hand of the registrar (and which office copy so certified the registrar shall in all cases grant to every person who shall apply for the same), shall in all cases be admitted and allowed as legal evidence thereof in all courts whatsoever; and every such registrar shall be entitled to the sum of two shillings, and no more, for so depositing as aforesaid such deed, instrument, or writing, and so as aforesaid certifying such deposit thereof; and the sum of one shilling, and no more, for each search to be made for the same; and the sum of sixpence, and no more, over and besides the stamp duty, if any, for each folio of seventy-two words of each such office copy so certified as aforesaid.

Deed to be open to inspection; and a certified copy to be admitted as evidence.

Fees to registrar.

Resignation to state the engagement, and name of person for whom made.
Resignation to be void unless the person be presented within six months.

V. And be it further enacted, that every resignation to be made in pursuance of any such engagement as aforesaid shall refer to the engagement in pursuance of which it is made, and state the name of the person for whose benefit it is made; and that it shall not be lawful for the ordinary to refuse such resignation, unless upon good and sufficient cause to be shewn for that purpose; and that such resignation shall not be valid or effectual, except for the purpose of allowing the person for whose benefit it shall be so made to be presented, collated, nominated, or appointed to the spiritual office thereby resigned, and shall be absolutely null and void, unless such person shall be presented, collated, nominated, or appointed as aforesaid within six calendar months next after notice of such resignation shall have been given to the patron or patrons of such spiritual office.

Nothing herein to extend to presentations made

VI. Provided also, and be it further enacted, that nothing in this act shall extend to any case where the presentation, collation, gift, or bestowing to or of any such spiritual office as aforesaid shall be made by the King's most excellent Ma-

jesty, his heirs or successors, in right of his crown or of his by the
 duchy of Lancaster ; or by any archbishop, bishop, or other ^{King, &c.}
 ecclesiastical person, in right of his archbishopric, bishopric,
 or other ecclesiastical living, office, or dignity ; or by any
 other body politic or corporate, whether aggregate or sole ;
 or by any other person or persons, in right of any office or
 dignity ; or by any company, or any feoffees or trustees for
 charitable or other public purposes ; or by any other person
 or persons not entitled to the patronage of such spiritual
 office as private property.

1 & 2 WILLIAM IV. cap. 45⁴.

*An Act to extend the Provisions of an Act passed in the
 Twenty-ninth Year of the Reign of His Majesty King
 Charles the Second, intituled "An Act for confirming and
 perpetuating Augmentations made by Ecclesiastical Per-
 sons to small Vicarages and Curacies;" and for other
 Purposes.*

WHEREAS by an act passed in the twenty-ninth year of the
 reign of his late Majesty King Charles the Second, intituled
 "An act for confirming and perpetuating augmentations 29 Car. 2,
 made by ecclesiastical persons to small vicarages and cura- ^{c. 8.}
 cies," it was amongst other things enacted, that all and every
 augmentation, of what nature soever, granted, reserved, or
 agreed to be made payable, or intended to be granted, re-
 served, or made payable, since the first day of June in the
 twelfth year of his said Majesty's reign, or which should at
 any time thereafter be granted, reserved, or made payable to
 any vicar or curate, or reserved by way of increase of rent
 to the lessors, but intended to be to or for the use or benefit
 of any vicar or curate, by any archbishop, bishop, dean, pro-
 vost, dean and chapter, archdeacon, prebendary, or other
 ecclesiastical corporation, person or persons, whatsoever, so

⁴ Extended by act 17 & 18 Vict. c. 84.

making the said reservation out of any rectory impropriate or portion of tithes belonging to any archbishop, bishop, dean, provost, dean and chapter, or other ecclesiastical corporation, person or persons, should be deemed and adjudged to continue, and be and should for ever thereafter continue and remain, as well during the continuance of the estate or term upon which the said augmentations were granted, reserved, or agreed to be made payable, as afterwards, in whose hands soever the said rectories or portion of tithes should be or come, which rectories or portions of tithes should be chargeable therewith, whether the same should be reserved again or not; and the said vicars and curates respectively were thereby adjudged to be in the actual possession thereof for the use of themselves and their successors, and the same should for ever thereafter be taken, received, and enjoyed by the said vicars and curates, and their successors, as well during the continuance of the term or estate upon which the said augmentations were granted, reserved, or agreed to be made payable, as afterwards; and the said vicars and curates should have remedy for the same, either by distress upon the rectories impropriate or portions of tithes charged therewith, or by action of debt against that person who ought to have paid the same, his executors or administrators, any disability in the person or persons, bodies politic or corporate, so granting, or any disability or incapacity in the vicars or curates to whom or to or for whose use or benefit the same were granted or intended to be granted, the statute of mortmain, or any other law, custom, or other matter or thing whatsoever to the contrary notwithstanding; provided always, that no future augmentation should be confirmed by virtue of the said act which should exceed one moiety of the clear yearly value above all reprises of the rectory impropriate out of which the same should be granted or reserved; and it was thereby also enacted, that if any question should thereafter arise concerning the validity of such grants, or any other matter or thing in that act mentioned and contained, such favourable constructions, and such remedy, if need be, should be had and made for the benefit of the vicars and curates as theretofore had been had and made or might be had for other charitable uses upon the statutes for charitable uses:

and whereas it is expedient that the powers and provisions of the said act should be amended and enlarged; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present parliament assembled, and by the authority of the same, that the said recited provision, by which the amount of any augmentation is restricted and limited to one moiety of the clear yearly value above all reprises of the rectory impropriate out of which the same should be granted and reserved, shall, so far as relates to any augmentation which may be granted after the passing of this act, be and the same is hereby repealed.

Provision
in recited
act limit-
ing any
augmen-
tation
repealed.

II. And whereas doubts may arise by reason of the mention of portion of tithes in the said recited act; be it enacted, that the provisions of the said recited act shall extend to any augmentation to be made out of tithes, although the same may not be a portion of tithes; and further, that it shall be lawful, under the power given by the said recited act, to grant, reserve, or make payable any such augmentation as aforesaid to the incumbent of any church or chapel within the parish or place in which the rectory impropriate shall lie, or in which the tithes or portion of tithes shall arise (as the case may be), whether such incumbent shall be a vicar or curate, or otherwise: Provided also, that no such augmentation shall be made payable to any other person whomsoever.

Explaining
doubts as
to portion
of tithes,
&c.

III. And be it further enacted, that in every case in which any augmentation shall at any time hereafter be granted, reserved, or made payable to the incumbent of any church or chapel, or reserved by way of increase of rent to the lessors, but intended to be to or for the use or benefit of any incumbent, by the master and fellows of any college, or the master or guardian of any hospital so making the said grant or reservation out of any rectory impropriate, or tithes or portion of tithes, belonging to the master and fellows of such college, or the master or guardian of such hospital, all the provisions hereinbefore recited and set forth, except the provision hereinbefore repealed, shall apply to such case in the same manner as if the same provisions, except as aforesaid (with such alterations therein as the difference between the cases

Recited
act to
extend to
augmenta-
tions by
colleges
and hospi-
tals.

would require), were herein expressly set forth and enacted with reference thereto: Provided always, that every such augmentation shall be made to the incumbent of some church or chapel within the parish or place in which the rectory impropriate shall lie, or in which the tithes or portion of tithes shall arise (as the case may be).

The same statute to extend to augmentations made by spiritual persons, colleges, and hospitals, out of any hereditaments, to any church or chapel being in their patronage.

IV. And be it further enacted, that in every case in which any augmentation shall at any time hereafter be granted, reserved, or made payable to the incumbent of any church or chapel being in the patronage of the grantor or grantors, or lessor or lessors, or be reserved by way of increase of rent to the lessor or lessors, but intended to be to or for the use or benefit of any such incumbent, by any archbishop, bishop, dean, dean and chapter, archdeacon, prebendary, or other ecclesiastical corporation, person or persons whatsoever, or the master and fellows of any college, or the master or guardian of any hospital so making the said grant or reservation out of any lands, tenements, or other hereditaments belonging to such archbishop, bishop, dean, dean and chapter, archdeacon, prebendary, or other ecclesiastical corporation, person or persons, whatsoever, or the master and fellows of such college, or the master or guardian of such hospital, all the provisions hereinbefore recited and set forth (except the provision hereinbefore repealed) shall apply to such case in the same manner as if the same provisions, except as aforesaid (with such alterations therein as the differences between the cases would require), were herein expressly set forth and enacted with reference thereto.

All such augmentations to be in the form of annual rents.

V. Provided also, and be it further enacted and declared, that every augmentation which at any time hereafter shall be granted, reserved, or made payable, either under the power given by the said recited act, or under either of the powers hereinbefore contained, shall be in the form of an annual rent, and that the provisions of the said recited act, and the provisions hereinbefore contained, shall not apply to any other kind of augmentation whatsoever to be made after the passing of this act.

Where hereditaments are in lease, a

VI. And be it further enacted and declared, that where any such rectory impropriate, or tithes, or portion of tithes, or any such lands, tenements, or other hereditaments as

aforesaid, shall respectively be subject to any lease on which an annual rent shall be reserved or be payable to the person or persons or body politic making the augmentation, it shall be lawful, during the continuance of such lease, to exercise the power given by the said recited act, or either of the powers hereinbefore contained (so far as the same shall apply), by granting to the incumbent of the benefice intended to be augmented a part of the rent which shall be so reserved or made payable as aforesaid; and then and in every such case the same premises shall for ever, as well after the determination of such lease as during the continuance thereof, be chargeable to such incumbent, and his successors, with the augmentation which shall have been so granted to him as aforesaid; and from and after such time as notice of the said grant shall be given to the person or persons entitled in possession under the said lease, and thenceforth during the continuance of the same, such incumbent, and his successors, shall have all the same powers for enforcing payment of such augmentation as the person or persons or body politic by whom the augmentation shall have been granted might have had in that behalf in case no grant of the same had been made; and after the determination of the said lease, the said incumbent, and his successors, shall have such remedy for enforcing payment of such augmentation as aforesaid as is provided by the said recited act with respect to augmentations granted, reserved, or made payable under the authority thereof.

part of the reserved rent may be granted as an augmentation.

VII. And be it further enacted, that where any such rectory impropriate, or tithes, or portion of tithes, lands, tenements, or other hereditaments as aforesaid, shall be subject to any lease for any term not exceeding twenty-one years or three lives, or (in the case of such houses as under the provisions of the act passed in the fourteenth year of the reign of her Majesty Queen Elizabeth, intituled "An act for continuation, explanation, perfecting, and enlarging of divers statutes, may lawfully be leased for forty years") not exceeding forty years, on which lease the most improved rent at the time of making the same shall not have been reserved, it shall be lawful at any time during the continuance of such lease to exercise the power given by the said recited act, or

Where hereditaments are subject to a lease not reserving a rack-rent, an augmentation may be granted, to take effect on the determination of such lease.

either of the powers hereinbefore contained, by granting out of the said premises an augmentation, to take effect in possession after the expiration, surrender, or other determination of such lease, and then and in every such case the said premises shall, from and after the expiration, surrender, or other determination of the said lease, and for ever thereafter, be chargeable with the said augmentation; and the provisions of the said recited act and of this act respectively shall in all respects apply to every augmentation, which shall be so granted in the same manner as in other cases of augmentations to be granted under the powers of the said recited act or of this act.

Power in such cases to defer the commencement of the augmentation upon a renewal of the lease.

VIII. And whereas it is apprehended that it may be desirable in many cases to make grants of augmentations in the manner last hereinbefore mentioned, and that such grants would be much discouraged if the augmentation to be granted should necessarily take effect in possession upon a surrender of the lease during which the same had been granted as aforesaid for the purpose of such lease being renewed; be it therefore further enacted, that in any case in which an augmentation shall have been granted to take effect in possession after the expiration, surrender, or other determination of any lease in the manner authorized by the clause last hereinbefore contained, and a renewal of such lease shall take place before the expiration thereof, it shall be lawful in and by the renewed lease to defer the time from which such augmentation is to take effect in possession as aforesaid until any time to be therein specified in that behalf: Provided always, that the time to which the augmentation shall be so deferred shall be some time not exceeding twenty-one years, or (in the case of such houses as by the said act of her Majesty Queen Elizabeth may lawfully be leased for forty years) not exceeding forty years, to be respectively computed from the commencement of the lease during which the augmentation shall have been granted.

Power to apportion augmentations on future leases.

IX. Provided always, and be it further enacted, that where any such augmentation as aforesaid shall have become chargeable, under or by virtue of the said recited act, or of this act, upon any rectory impropriate, tithes, portion of tithes, lands, tenements, or other hereditaments, if any lease shall

afterwards be granted of any part of the same premises separately from the rest thereof, then and in every such case, and from time to time so often as the same shall happen, it shall be lawful for the person or persons granting such lease to provide and agree that any part of such augmentation shall during such lease be paid out of such part of the hereditaments previously charged therewith as shall be comprised in the said lease, and then and in such case, and thenceforth during the lease so to be made as aforesaid, no further or other part of the said augmentation shall be charged on the premises comprised in the said lease than such part of the said augmentation as shall be so agreed to be paid out of the same: provided always, that in every such case the hereditaments which shall be leased in severalty as aforesaid shall be a competent security for such part of the said augmentation as shall be agreed to be paid out of the same, and the remainder of the hereditaments originally charged with the said augmentation shall be a competent security for the residue thereof.

Restric-
tion on the
exercise of
the power
of appor-
tionment.

X. And whereas by the said recited act it was enacted, that if upon the surrender, expiration, or other determination of any lease wherein such augmentation had been or should be granted, any new lease of the premises, or any part thereof, should thereafter be made without express continuance of the said augmentation, every such new lease should be utterly void; be it further enacted, that the said last-mentioned provision, so far as relates to any augmentation which may be granted after the passing of this act, shall be, and the same is hereby repealed.

Repeal of
so much of
recited act
as requires
an express
continu-
ance of the
augmenta-
tion in new
leases.

XI. And be it further enacted, that it shall be lawful for any archbishop, bishop, dean, dean and chapter, archdeacon, prebendary, or other ecclesiastical corporation, or person or persons, or the master and fellows of any college, or the master or guardian of any hospital, being, in his or their corporate capacity, the owner or owners of any rectory impropriate, or of any tithes, or portion of tithes, arising in any particular parish or place, by a deed duly executed, to annex such rectory impropriate or tithes, or portion of tithes as aforesaid, or any lands or tithes, being part or parcel thereof, with the appurtenances, unto any church or chapel

Ecclesiastical cor-
porations,
colleges,
&c. holding im-
propriate rec-
tories or
tithes, may
annex the
same to
any church
or chapel
within the
parish in
which the

rectory
lies or
the tithes
arise.

within the parish or place in which the rectory impropriate shall lie, or in which the tithes or portion of tithes shall arise, to the intent and in order that the same may be held and enjoyed by the incumbent for the time being of such church or chapel; and every such deed shall be effectual to all intents and purposes whatsoever, any law or statute to the contrary notwithstanding.

Power to
annex
lands, &c.,
held by
them to
any church
or chapel
under their
patronage.

XII. And be it further enacted, that it shall be lawful for any archbishop, bishop, dean, dean and chapter, archdeacon, prebendary, or other ecclesiastical corporation, or person or persons, or the master and fellows of any college, or the master or guardian of any hospital, being, in his or their corporate capacity, the owner or owners of any lands, tenements, or other hereditaments whatsoever, and also being in his or their corporate capacity the patron or patrons of any church or chapel, by a deed duly executed, to annex such lands, tenements, or other hereditaments, with the appurtenances, unto such church or chapel, to the intent and in order that the same premises may be held and enjoyed by the incumbent for the time being thereof; and every such deed shall be effectual to all intents and purposes whatsoever, any law or statute to the contrary notwithstanding.

Such an-
nexations
to be sub-
ject to
prior
leases, and
the rents
reserved
upon the
same, or
some por-
tion there-
of, to be
determined
by the deed
of annexa-
tion.

XIII. Provided always, and be it further enacted, that in any case in which any rectory impropriate, tithes, or portion of tithes, lands, tenements, or other hereditaments, shall be annexed to any church or chapel, pursuant to either of the powers hereinbefore in that behalf contained, the annexation thereof shall be subject and without prejudice to any lease or leases which previously to such annexation may have been made or granted of the same premises or any part thereof; provided also, that in every such case any rent or rents which may have been reserved in respect of the said premises in and by such lease or leases, or (in case any other hereditaments shall have been also comprised in such lease or leases) some proportional part of such rent or rents, such proportional part to be fixed and determined in and by the instrument by which the annexation shall be made, shall during the continuance of the said lease or leases be payable to the incumbent for the time being of the church or chapel to which the premises shall be annexed as aforesaid; and ac-

cordingly such incumbent for the time being shall, during the continuance of such lease or leases, have all the same powers for enforcing payment of the same rent or rents, or of such proportional part thereof as aforesaid, as the person or persons, or body politic by whom the annexation shall have been made might have had in that behalf in case the said premises had not been annexed.

XIV. And be it further enacted and declared, that where any rectory impropriate, tithes, or portion of tithes, lands, tenements, or other hereditaments, which shall be annexed to any church or chapel under either of the powers hereinbefore in that behalf contained, or any part thereof, shall have been anciently or accustomably demised with other hereditaments in one lease, under one rent, or divers rents issuing out of the whole, and after such annexation such other hereditaments as aforesaid, or any part thereof, shall be demised by a separate lease or leases, all the provisions of an act passed in the thirty-ninth and fortieth years of the reign of his late Majesty King George the Third, intituled "An act for explaining and amending several acts made in the thirty-second year of King Henry the Eighth, and the first, thirteenth, and fourteenth years of the reign of Queen Elizabeth, so far as respects leases granted by archbishops, bishops, masters, and fellows of colleges, deans and chapters of cathedral and collegiate churches, masters and guardians of hospitals, and others, having any spiritual or ecclesiastical living or promotion," shall apply and take effect in the same manner as if the premises which shall be so annexed as aforesaid had been retained in the possession or occupation of the person or persons by whom such lease or leases as aforesaid shall be made.

Provisions of 39 & 40 Geo. 3, c. 41, to extend to such annexations, in certain cases.

XV. And be it further enacted, that such of the powers hereinbefore contained as are restricted to cases in which the corporation or person by whom the same may be exercised shall be the patron of the benefice which it shall be intended or desired to augment, shall apply to and may be exercised in cases in which such corporation or person shall be entitled only to the alternate right of presentation to such benefice.

Certain powers to apply to persons entitled to alternate presentation.

XVI. Provided always, and be it further enacted, that the power given by the said recited act shall not at any time

Benefices exceeding

in yearly value 300*l.* not to be raised, and all others to be limited.

hereafter, nor shall any of the powers hereinbefore contained, in any case, be exercised so as to augment in value any benefice whatsoever which at the time of the exercise of the power shall exceed in clear annual value the sum of three hundred pounds, or so as to raise the clear annual value of any benefice to any greater amount than such sum of three hundred and fifty pounds, or three hundred pounds not taking account of surplice-fees.

Power to determine the yearly value of any hereditaments for the purposes of the act.

XVII. And be it further enacted, that in every case in which it shall be desired, upon the exercise of any of the said powers, to ascertain, for the purposes of this act, the clear yearly value of any benefice, or of any rectory impropriate, tithes, or portion of tithes, lands, tenements, or other hereditaments, it shall be lawful for the archbishop or bishop of the diocese within which the benefice to be augmented shall be situate, or where the same shall be situate within a peculiar jurisdiction belonging to any archbishop or bishop, then for the archbishop or bishop to whom such peculiar jurisdiction shall belong, to cause such clear yearly value to be determined and ascertained by any two persons whom he shall appoint for that purpose, by writing under his hand (which writing is hereby directed to be afterwards annexed to the instrument by which the power shall be exercised), and a certificate of such clear yearly value, written or endorsed on the instrument by which the power shall be exercised, and signed by such persons as aforesaid, shall, for all the purposes of this act, be conclusive evidence of such clear yearly value as aforesaid.

By whom the above-mentioned powers may be exercised, and with whose consent.

XVIII. Provided also, and be it further enacted, that in every case in which the power given by the said recited act, or any of the powers hereinbefore contained (other than and except the aforesaid power of deferring the time at which an augmentation is to take effect in possession), shall be exercised by any bishop, dean, archdeacon, or prebendary, or by the master or guardian of any hospital, the same shall be so exercised in the case of a bishop, with the consent^a of the archbishop of the province, or in the case of a dean, with the consent of the dean and chapter, or in the case of

^a As to the cases in which the consent of the Ecclesiastical Commissioners is necessary, see 3 & 4 Vict. c. 113, s. 76, and 4 & 5 Vict. c. 39, s. 26.

an archdeacon or prebendary, with the consent of the archbishop or bishop to whose jurisdiction or control they shall be respectively subject, or in the case of the master or guardian of an hospital, with the consent of the patron or patrons, visitor or visitors (if any), of such hospital, such consent as aforesaid to be testified by the said archbishop, dean and chapter, bishop, or patron or patrons, visitor or visitors (as the case may require), executing the instrument by which the power shall be exercised.

XIX. Provided always, and be it further enacted, that the incumbent of any benefice or living shall not be authorized to exercise any of the powers aforesaid with respect to any hereditaments to which he may be entitled in right of his benefice. Incumbents not to exercise them.

XX. Provided also, and be it further enacted, that where the incumbent of any benefice shall in right of the same be entitled to any tithes or portion of tithes arising in any parish or place not being within the limits of such benefice, it shall be lawful for the incumbent for the time being of such benefice, by a deed duly executed by him, to annex such tithes or portion of tithes as aforesaid, or any part thereof, to any church or chapel within the parish or place in which such tithes or portion of tithes shall arise, to the intent that the same may be enjoyed by the incumbent for the time being of such church or chapel; and every such deed shall be effectual to all intents and purposes whatsoever, any law or statute to the contrary notwithstanding: provided always, that every such annexation as aforesaid shall be made with the consent of the archbishop or bishop of the diocese within which the said benefice shall be situate (or if the said benefice shall be situate within a peculiar jurisdiction belonging to any archbishop or bishop, then with the consent of the archbishop or bishop to whom such peculiar jurisdiction shall belong), and also with the consent of the patron or patrons of the said benefice, such consent to be testified by the said archbishop or bishop and the said patron or patrons respectively executing the instrument by which the annexation shall be made. Incumbent may annex tithes, &c., to which he is entitled, arising out of the limits of his benefice, to the church or chapel of the parish where they arise.

XXI. And whereas it is expedient that rectors and vicars should be enabled, under proper restrictions, to charge their rectories and vicarages for the benefit and support of chapels Power to rectors or vicars to charge

their rectories and vicarages for the benefit of chapels of ease, &c.

of ease situate within such rectories and vicarages, as also in certain other cases; be it therefore further enacted, that it shall be lawful for any rector or vicar for the time being of any rectory or vicarage, by a deed duly executed by him, to annex to any chapel of ease or parochial chapel, or to any district church or chapel or any chapel having a district assigned thereto, whether already built or hereafter to be built (such chapel of ease or other chapel or church, with the district or place to which the same belongs, being situate within the limits^a, or within the original limits, of the said rectory or vicarage), any part or parts of the tithes or other annual revenues belonging to such rectory or vicarage, or to grant to the incumbent for the time being of any such chapel of ease or other chapel or church, and his successors, any annual sum of money, to be payable by equal quarterly or equal half-yearly payments, and to charge the same on all or any part of such tithes or other revenues as aforesaid, or on any lands or other hereditaments belonging to the said rectory or vicarage; and in every case in which any such tithes or other revenues shall be annexed to any such church or chapel as aforesaid, the incumbent for the time being thereof shall thenceforth have all the same remedies for recovering and enforcing payment of the premises which shall be so annexed as the rector or vicar for the time being of the rectory or vicarage might have had if such annexation had not been made; and in every case in which any annual sum of money shall be so granted as aforesaid, the incumbent for the time being entitled thereto shall have all such remedies for recovering and enforcing payment thereof by action of debt against the incumbent for the time being of the said rectory or vicarage, or by distress upon the hereditaments to be charged therewith, or otherwise, as shall in that behalf be specified and given by the deed by which the grant shall be made: Provided always, that every such grant and annexation shall be made with the consent of the archbishop or bishop of the diocese within which the rectory or vicarage shall be situate (or if the rectory or vicarage shall be situate within a peculiar jurisdiction belonging to any archbishop or

^a The powers here given are, by the 14th section of the act 1 & 2 Vict. c. 107, extended for the benefit of incumbents of consolidated chapelries.

bishop, then with the consent of the archbishop or bishop to whom such peculiar jurisdiction shall belong), and also with the consent of the patron or patrons of the said rectory or vicarage, such consent to be testified by the said archbishop or bishop, and the said patron or patrons respectively executing the instrument by which the annexation or grant shall be made.

XXII. And whereas by an act passed in the fifty-eighth year of the reign of his late Majesty King George the Third, intituled "An act for building and promoting the building of additional churches in populous places," provision was made, under certain restrictions, for enabling any parish to be divided into two or more distinct parishes, and for apportioning in such cases the glebe lands, tithes, moduses or other endowments between the respective divisions; and it was thereby provided with respect to every such case, that during the incumbency of the existing incumbent of the parish, every new church intended as the parish church of any division intended to become a distinct parish, should remain a chapel of ease; be it further enacted that the power last hereinbefore contained shall not be exercised for the purpose of making an annexation or grant to any chapel of ease situate within any division which under the provisions of the said last-recited act shall be intended to become a distinct parish.

XXIII. And be it further enacted, that in any case in which the consent of the patron of any benefice shall be required to the exercise of any power given by this act, and the patronage of such benefice shall be in the crown, the consent of the crown to the exercise of such power shall be testified in the manner hereinafter mentioned; (that is to say,) if such benefice shall be above the yearly value of twenty pounds in the king's books, the instrument by which the power shall be exercised shall be executed by the Lord High Treasurer or First Lord Commissioner of the Treasury for the time being; and if such benefice shall not exceed the yearly value of twenty pounds in the king's books, such instrument shall be executed by the Lord High Chancellor, Lord Keeper or Lords Commissioners of the Great Seal for the time being; and if such benefice shall be within the

Exception to the preceding power.
58 Geo. 3, c. 45.

Manner in which consent to the exercise of powers in this act shall be testified, where patronage of benefice is in the Crown;

patronage of the crown in right of the duchy of Lancaster, such instrument shall be executed by the chancellor of the said duchy for the time being; and the execution of such instrument by such person or persons shall be deemed and taken, for the purposes of this act, to be an execution by the patron of the benefice.

where patron is an incapacitated person;

XXIV. And be it further enacted, that in any case where the consent of the patron of any benefice shall be required to the exercise of any power given by this act, and the patron of such benefice shall be a minor, idiot, lunatic, or feme covert, it shall be lawful for the guardian or guardians, committee or committees, or husband of such patron (but in case of a feme covert with her consent in writing) to execute the instrument by which such power shall be exercised, in testimony of the consent of such patron; and such execution shall for the purposes of this act be deemed and taken to be an execution by the patron of the benefice.

where patronage is part of the possessions of the duchy of Cornwall.

XXV. And be it further enacted, that in any case in which the consent of the patron of any benefice shall be required to the exercise of any power given by this act, and the advowson and right of patronage of such benefice shall be part of the possessions of the duchy of Cornwall, the consent of the patron of such benefice to the exercise of such power shall be testified in the manner hereinafter mentioned; (that is to say,) the instrument by which the power shall be exercised shall be executed by the Duke of Cornwall for the time being, if of full age, but if such benefice shall be within the patronage of the Crown in right of the duchy of Cornwall, such instrument shall be executed by the same person or persons who is or are by this act authorized to testify the consent of the Crown to the exercise of any power given by this act in respect of any benefice in the patronage of the Crown; and the execution of such instrument by such person or persons shall be deemed and taken, for the purposes of this act, to be an execution by the patron of the benefice.

Instruments to be deposited in the registry of the diocese.

XXVI. Provided always, and be it further enacted, that in every case in which the power given by the said recited act of the twenty-ninth year of the reign of King Charles the Second, or any of the powers hereinbefore contained,

shall be exercised, the instrument by which the same shall be so exercised shall within two calendar months after the date of the same be deposited in the registry of the diocese within which the benefice augmented or otherwise benefited shall be locally situate, or where the same shall be situate within a peculiar jurisdiction belonging to any archbishop or bishop, then in the registry of such peculiar jurisdiction.

XXVII. And be it further enacted, that an office copy of any instrument which under the provisions of this act shall be deposited in any such registry as aforesaid (such office copy being certified by the registrar or his deputy) shall be allowed as evidence thereof in all courts and places, and every person shall be entitled to require any such office copy, and shall also be allowed, at all usual and proper times, to search for and inspect any instrument which shall be so deposited, and the registrar shall be entitled to the sum of five shillings and no more for depositing any such instrument as aforesaid, and to the sum of one shilling and no more for allowing any such search or inspection as aforesaid, and to the sum of sixpence and no more (besides stamp duty) for every law folio of seventy-two words in any office copy to be made and to be certified as aforesaid.

Office copies of instruments deposited in the registry to be evidence.

Fee to the registrar.

XXVIII. And be it further enacted, that the word "benefice" in this act shall be construed and taken to comprehend rectories, vicarages, donatives, perpetual curacies, parochial and consolidated chapelries, district parishes and district chapelries, and churches and chapels having a district assigned thereto.

Extent of the word "benefice" in this act.

XXIX. And be it further enacted, that the powers by this act given to the master and fellows of any college shall apply to cases in which the head of the college shall be called the warden, dean, provost, president, rector, or principal thereof, or shall be called by any other denomination, and that such powers shall extend to every college and hall in the universities of Oxford and Cambridge, and to the colleges of Eton and Winchester.

Act to apply to all heads of colleges, under whatever denomination.

XXX. Provided also, and be it further enacted, that this act shall extend only to that part of the United Kingdom called England and Wales.

To extend to England and Wales.

1 & 2 VICTORIA, cap. 23.

An Act to amend the Law for providing fit Houses for the beneficed Clergy.

WHEREAS for further promoting the residence of the clergy it is expedient and desirable that the powers and provisions given and made by an act passed in the seventeenth year of 17 Geo. 3, the reign of King George the Third, intituled "An act to promote the residence of the parochial clergy, by making provision for the more speedy and effectual building, rebuilding, repairing, or purchasing houses and other necessary buildings and tenements for the use of their benefices," as the same are explained and amended by an act passed in the twenty-first year of the same reign, intituled "An act to explain and amend an act made in the seventeenth year of the reign of his present Majesty, intituled 'An act to promote the residence of the parochial clergy, by making provision for the more speedy and effectual building, rebuilding, repairing, or purchasing houses and other necessary buildings and tenements for the use of their benefices,'" should be extended; be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and immediately after the passing of this act it shall be lawful for the incumbent of any benefice to borrow and take up at interest for the purposes of the said acts, and also for the purpose of buying or procuring, if necessary, a proper site for a house and other necessary buildings, or for the purposes of the said acts only, any sum or sums of money not exceeding three years net income of such benefice, and to take all such proceedings as are required in and by the said acts [so far as the same are applicable for that purpose], and, as a security for the money so to be borrowed, to mortgage the glebe, tithe, rent-charges, rents, and other profits and emoluments belonging to such

Extension of the provisions of recited acts relating to the repairing and building of houses of residence.

⁷ Powers have been since given to bishops, and also to deans and canons, to borrow for similar purposes.

benefice, to such person or persons, corporation or corporations aggregate or sole, as shall lend the same money, by one or more deed or deeds, for the term of thirty-five years, or until the money so to be borrowed, with interest for the same, and such costs and charges as may attend the recovery thereof, shall be fully paid and satisfied, according to the terms and conditions of the said acts [so far as the same are applicable, and not hereby repealed or altered]; and that from and after the expiration of the first year of the said term [in which year no part of the principal sum borrowed shall be repayable] the incumbent shall yearly and every year [such year to be computed from the day of the date of the mortgage] pay to the mortgagee one thirtieth part of the said principal sum, until the whole thereof shall be repaid, and shall at the end of the first and each succeeding year pay the yearly interest on the said principal sum, or on so much thereof as shall from time to time remain unpaid, in each case according to the terms and conditions of the said acts, except so far as the same are hereby repealed or altered; and such mortgage deed or deeds shall be made as nearly as may be in the form or to the effect of the form contained in the schedule to the said acts or one of them, and shall bind every succeeding incumbent of such benefice until the principal and interest, costs and charges, shall be paid off and discharged, as fully and effectually as if such successor had made and executed the same.

II. And be it enacted, that so much of the said acts as requires the incumbent of a benefice mortgaged under the provisions thereof, if non-resident, to pay ten pounds per centum per annum of the money originally advanced, and obliges an incumbent paying five pounds per centum per annum to produce a certificate of residence, shall be and the same are hereby repealed as to all mortgages to be made after the passing of this act. Repeal of so much as requires non-residents to pay 10l. per cent. per ann. of sum borrowed, &c.

III. And be it enacted, that for the future, as to every mortgage which has been made to the governors of the bounty of Queen Anne for the augmentation of the maintenance of the poor clergy, by any bishop, under the powers of an act of parliament specially enabling him, whereby a greater yearly instalment than one thirtieth part of the principal sum secured by an existing mortgage to the The yearly instalments of principal sums secured by existing mortgages to the

governors
of Queen
Anne's
Bounty re-
duced.

cipal sum is stipulated to be paid, or by the incumbent of a benefice, by virtue of the two before-mentioned acts, the instalment of the principal sum to be paid in every year to the said governors or their assigns by such bishop or by the incumbent [whether such incumbent shall have been resident for the space of twenty weeks in the year for which such instalment shall be payable, or not, and without the production of any certificate of such residence], shall be one thirtieth part of the principal sum originally advanced on such mortgage, in lieu of the yearly instalment thereby stipulated to be paid, until the whole of the said principal sum shall be fully discharged and paid, such substituted yearly instalment to commence and be paid in each case on the day when the next yearly instalment by virtue of the said mortgage shall become due; and the mortgages made to the said governors of the estates of any bishopric, or of the glebe, tithes, rents, and other profits and emoluments of any benefice, shall in every case be and remain in force as a security for the yearly instalments of the principal by the said mortgages agreed to be paid, as well as for the payment of the interest arising on such mortgages, and with all the powers and remedies for enforcing the same given by the said respective acts, until the money borrowed, and all interest for the same, and also all costs and charges which shall be occasioned by the non-payment thereof, shall be fully paid and discharged, in like manner as if such substituted yearly instalments had been expressly mentioned in and secured by the said mortgages, the expiration of the term of years granted by the said mortgages, or any other cause or matter whatsoever, notwithstanding.

Governors
of Queen
Anne's
Bounty
may ad-
vance 100l.
for bene-
fices not
exceeding
50l. a year
without
interest.

IV. And be it further enacted, that it shall be lawful for the said governors to advance and lend any sum or sums of money not exceeding the sum of one hundred pounds in respect of each benefice, out of the money which has arisen or shall from time to time arise from the said bounty for promoting and assisting the several purposes of the said acts and of this act, with respect to any such benefices as shall not exceed the clear annual improved value of fifty pounds, and such mortgage and security shall be made for the repayment of the principal sums so to be advanced as are herein-

before mentioned, but no interest shall be paid for the same ; and in cases where the annual value of such benefice shall exceed the sum of fifty pounds, that it shall and may be lawful for the said governors to advance and lend for the same purposes any sum or sums of money to the extent authorized by this act to be borrowed, upon such mortgage and security as aforesaid, and subject to the several regulations of this act, and to receive interest for the same not exceeding four pounds for one hundred pounds by the year.

V. And be it enacted, that it shall be lawful for any college or hall within the Universities of Oxford or Cambridge, or for any other corporate bodies possessed of the patronage of ecclesiastical benefices, to advance and lend any sum or sums of money of which they have the power of disposing in order to aid and assist the several purposes of this act, for the building, rebuilding, repairing or purchasing of any houses, or buildings for the habitation or convenience of the clergy, or sites for such houses and buildings, upon benefices in the patronage of such colleges or halls respectively, upon the mortgage and security directed by this act for the repayment of the principal without taking any interest for the same.

Colleges, &c., may advance money interest-free to benefices in their patronage for houses.

VI. And be it enacted, that when it shall happen that any existing house and offices belonging to any benefice shall be unfit for the residence of the incumbent thereof, and shall be incapable of being enlarged or repaired so as to be rendered fit for his residence and it shall be so certified to the bishop of the diocese wherein such benefice shall be situate by some competent surveyor or architect, and that it will be advantageous to the benefice that such house and offices should be suffered to remain, it shall be lawful for such incumbent, with the consent in writing of such bishop [such consent to be registered in the registry of such bishop], to allow such house and offices to remain standing as a dwelling-house and offices, or to convert the same into farming buildings for the use and occupation of the occupier or occupiers of the glebe lands belonging to such benefice ; and from and after the complete erection or the purchase of a new house and offices to the satisfaction of the bishop of the diocese, such old house and offices shall from thenceforth be used for,

Old benefice-houses in certain cases may be converted into farming buildings for the tenants of the glebe.

and converted to the purposes aforesaid ; and the house and offices to be so erected or purchased shall from thenceforth, to all intents and purposes, be deemed and taken to be the residence house of and for such benefice, without the necessity of obtaining any licence or faculty for that purpose.

Power to incumbent (with consent of patron and ordinary and archbishop) to sell house of residence if inconveniently situated, or under special circumstances.

VII. And be it enacted, that where the residence-house, gardens, orchard, and appurtenances belonging to any benefice shall be inconveniently situate, or for other good and sufficient reason, it shall be thought advisable to sell and dispose thereof, it shall and may be lawful for the incumbent of such benefice, and he is hereby authorized and empowered, with the consent and approbation of the ordinary and patron thereof, and of the archbishop of the province, to be signified by their executing the deed of conveyance hereby authorized to be made, absolutely to sell and dispose of such house, gardens, orchard, and appurtenances, any or either of them, with any land contiguous thereto not exceeding — ^s acres, to any person or persons whomsoever, either altogether or in parcels, and for such sum or sums of money as to such ordinary and patron and archbishop shall appear fair and reasonable, and upon¹ payment of the purchase-money for the same as hereinafter mentioned by deed indented, to convey and assure such house, gardens, orchard, land, and appurtenances unto and to the use of the purchaser or purchasers thereof, his or their heirs or assigns, or as he or they shall direct or appoint.

Purchase-mones to be paid to the governors of Queen Anne's Bounty ;

VIII. And be it enacted, that the monies to arise from such sale or sales as aforesaid shall be paid to the said governors of the bounty of Queen Anne ; and that the receipt or receipts of the treasurer for the time being of the said governors shall be and be deemed and taken to be an effectual discharge to the person or persons paying such monies, or for so much thereof as in such receipt or receipts shall be expressed ; and after obtaining such receipt or receipts such purchaser or purchasers shall be absolutely discharged from the money for which such receipt or receipts shall be given, and shall not be answerable or accountable for the loss, mis-

^s 1 & 2 Vict. c. 29.

application or non-application of such monies or any part thereof.

IX. And be it enacted, that the monies^a to arise from such sale or sales as aforesaid shall, after payment of all costs, charges, and expenses of such sale or sales, be applied and disposed of by the said governors in or towards the erection or purchase of some¹ other house and offices, or the purchase of an orchard, garden, and appurtenances, or land for the site of a house, any or either of them, together with land contiguous thereto, and not exceeding twelve acres, suitable for the residence and occupation of the incumbent of such benefice and approved of by the said ordinary and patron, such approval to be signified under the respective hands of such ordinary and patron, and to be deposited in the registry of such ordinary; and such house shall from thenceforth be deemed and taken to be the house of residence of such benefice for all purposes whatsoever.

X. And be it enacted, that in any case in which the consent of the patron of any benefice shall be required to the exercise of any power given by this act, and the patronage of such benefice shall be in the crown, the consent of the crown to the exercise of such power shall be testified in the manner herein-after mentioned; (that is to say,) if such benefice shall be above the yearly value of twenty pounds in the queen's books, the instrument by which the power shall be exercised shall be executed by the Lord High Treasurer or First Lord Commissioner of the treasury for the time being; and if such benefice shall not exceed the yearly value of twenty pounds in the queen's books, such instrument shall be executed by the Lord High Chancellor, Lord Keeper, or Lords Commissioners of the great seal for the time being; and if such benefice shall be within the patronage of the crown in right of the duchy of Lancaster, such instrument shall be executed by the chancellor of the said duchy for the time being; and the execution of such instrument by such person or persons shall be deemed and taken, for the purposes of this act, to be an execution by the patron of the benefice.

^a See 2 & 3 Vict. c. 49, ss. 14. 17.

¹ See 1 & 2 Vict. c. 106, s. 25.

How consent to be given when patronage is attached to the duchy of Cornwall.

XI. And be it enacted, that in any case in which the consent of the patron of any benefice shall be required to the exercise of any power given by the said acts or by this act, and the advowson and right and patronage of such benefice shall be part of the possessions of the duchy of Cornwall, the consent of the patron of such benefice to the exercise of such power shall be testified in the manner hereinafter-mentioned ; (that is to say,) the instrument by which the power shall be exercised shall be executed by the Duke of Cornwall for the time being, if of full age ; but if such benefice shall be within the patronage of the crown in right of the duchy of Cornwall, such instrument shall be executed by the same person or persons who is or are by the said acts authorized to testify the consent of the crown to the exercise of any power given thereby in respect of any benefice in the patronage of the crown ; and the execution of such instrument by such person or persons shall be deemed and taken, for the purposes of the said acts and of this act, to be an execution by the patron of the benefice.

How consent to be given where patron is an incapacitated person.

XII. And be it enacted, that in any case in which the consent of the patron of any benefice shall be required to the exercise of any power given by this act, and the patron of such benefice shall be a minor, idiot, lunatic, or feme covert, it shall be lawful for the guardian or guardians, committee or committees, or husband of such patron [but in case of a feme covert with her consent in writing] to execute the instrument by which such power shall be exercised in testimony of the consent of such patron ; and such execution shall, for the purposes of this act, be deemed and taken to be an execution by the patron of the benefice.

Remaining powers of recited acts extended to this act.

XIII. And be it enacted, that all powers, authorities, provisions, forms, and matters in the said acts contained, shall, except as is herein otherwise directed, extend and be applicable, *mutatis mutandis*, to all mortgages and other instruments made, as well under and for the purposes of this act as of the before-mentioned acts, and as if the same had been respectively repeated and set forth herein.

In case of a purchase the powers of act.

XIV. And be it enacted, that in the case of a purchase as aforesaid, the several powers and provisions contained in an act made and passed in the seventh year of the reign of his

Majesty King George the Fourth, intituled "An act to render more effectual the several acts now in force to promote the residence of the parochial clergy, by making provision for purchasing houses and other necessary buildings for the use of their benefices," shall be and the same are hereby extended to this act for the purposes aforesaid.

XV. And be it enacted, that every sequestration to be issued under the provisions of the said act of the seventeenth year of the reign of King George the Third shall have priority, and the sums to be thereby recovered shall be paid and satisfied in preference to all other sequestrations and the sums to be thereby recovered, except such sequestrations as shall be founded on judgments duly signed and docketed before the passing of this act.

XVI. And be it further enacted, that in the construction of this act the word "benefice" shall be deemed, construed, and taken to extend to and comprise all rectories with cure of souls, vicarages, perpetual curacies and chapelries, the incumbents of which respectively in right thereof shall be corporations sole.

1 & 2 VICTORIA, cap. 29.

Part of an Act to supply an Omission in an Act passed in the present Session of Parliament, intituled "An Act to amend the Law for providing fit Houses for the beneficed Clergy."

Be it declared and enacted, that the said hereinbefore recited section of the said act of parliament [the 7th sect. of the Act 1 & 2 Vict. c. 23] shall be deemed, construed, and taken to have such and the same effect to all intents and purposes whatsoever as if the said word "twelve" had been originally inserted therein between the words "exceeding" and "acres."

Sect. 7 in the recited act to have the intended effect, notwithstanding the omission of the word "twelve."

1 & 2 VICTORIA, cap. 106^a.*An Act to abridge the holding of Benefices in Plurality, and to make better Provision for the Residence of the Clergy.*

21 Hen. 8, c. 13. WHEREAS an act was passed in the twenty-first year of the reign of King Henry the Eighth, intituled "An act that no spiritual persons shall take to ferm of the king, or any other person, any lands or tenements for term of life, lives, years, or at will, &c. ; and for pluralities of benefices ; and for residence ;" the whole of which recited act (excepting only such parts as relate to pluralities of benefices) has since been repealed by an act passed in the fifty-seventh year of the reign of King George the Third, intituled "An act to consolidate and amend the laws relating to spiritual persons holding of farms ; and for enforcing the residence of spiritual persons on their benefices ; and for the support and maintenance of stipendiary curates in England : " and whereas it is expedient to consolidate and amend the said laws, and to restrain the holding of pluralities, and to make further provision for enforcing the residence of spiritual persons upon their benefices, and to limit the exemptions from such residence ; and also to make further provision respecting the appointment and support of stipendiary curates in England ; be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present parliament assembled, and by the authority of the same, that so much of the said recited acts as is now in force shall be and the same is hereby repealed ; save and except only such part of the said last-recited act as repeals certain acts and parts of

Both acts now wholly repealed ; saving as to penalties already incurred, or licences already granted.

^a See the act 13 & 14 Vict. c. 98, intituled "An act to amend the law relating to the holding of benefices in plurality," by which this act is much altered with respect to pluralities. See also a Summary of the provisions of certain acts of parliament "on the subject of holding Cathedral Preferments and Benefices in plurality," set forth in this work.

acts therein particularly recited; provided always, that nothing herein contained shall exempt any person from any penalties incurred under the said last-recited act before the time of passing this act, or take away or affect any proceedings for recovery thereof, whether commenced or not before the passing of this act; or shall annul or abridge any licence granted under the provisions of the said last-recited act before the time of passing this act.

II. And be it enacted, that from and after the passing of this act, no spiritual person holding more benefices than one shall accept and take to hold therewith any cathedral preferment, or any other benefice; and that no spiritual person holding any cathedral preferment, and also holding any benefice, shall accept and take to hold therewith any other cathedral preferment or any other benefice; and that no spiritual person holding any preferment in any cathedral or collegiate church shall accept and take to hold therewith any preferment in any other cathedral or collegiate church; any law, canon, custom, usage or dispensation to the contrary notwithstanding: Provided, that nothing hereinbefore contained shall be construed to prevent any archdeacon from holding, together with his archdeaconry, two benefices, under the limitations hereinafter mentioned with respect to distance, joint yearly value, and population, and one of which benefices shall be situate within the diocese^{*} of which his archdeaconry forms a part, or one cathedral preferment in any cathedral or collegiate church of the diocese of which his archdeaconry forms a part, and one benefice, situate within such diocese; or to prevent any spiritual person holding any cathedral preferment, with or without a benefice, from holding therewith any office in the same cathedral or collegiate church, the duties of which are statutably or accustomedly performed by the spiritual persons holding such preferment.

III. And be it enacted, that, except as hereinafter provided, no spiritual person holding any benefice shall accept and take to hold therewith any other benefice, unless it shall

Not more than two preferments to be held together;

nor two benefices, unless within ten

^{*} Extended to peculiars locally situate in the diocese, 4 & 5 Vict. c. 39, s. 10.

miles of be situate within the distance of ten [*now three from church*
each other; *to church*] statute miles from such first-mentioned benefice.

nor if IV. And be it enacted, that except as hereinafter pro-
population of one such vided, no spiritual person holding a benefice with a population
benefice is of more than three thousand persons shall accept and take to
more than hold therewith any other benefice, having, at the time of his
3000, or admission, institution, or being licensed thereto, a population
joint yearly value shall of more than five hundred persons; nor shall any spiritual
exceed person holding a benefice with a population of more than five
1000*l.* hundred persons, accept and take to hold therewith any
other benefice having, at the time of his admission, insti-
tution, or being licensed thereto a population of more than
three thousand persons; nor shall any spiritual person hold
together any two benefices if, at the time of his admission,
institution, or being licensed, to the second benefice, the
value of the two benefices [*now the restriction does not relate*
to the joint annual value of the two, but one of them is not
*to exceed 100*l.**] jointly shall exceed the yearly value of one
thousand pounds.

If yearly V. And be it enacted, that in case the bishop or bishops
value of (as the case may be), to whom any two benefices, within the
one of said distance of ten [*now three*] miles from each other, shall
benefices be less respectively be subject,—which, under the provision herein-
than 150*l.*, before contained, might not be holden together, but one of
and the which benefices shall be below the yearly value of [*but now*
population shall ex- *one of the benefices must not exceed 100*l.* per annum*] one
ceed 2000 hundred and fifty pounds, and the population of which shall
persons, exceed two thousand persons,—shall think it expedient that
the two the incumbent of one of such benefices should be permitted
may be to hold the said two benefices together, the said bishop or
held bishops shall be at liberty, upon application made to him or
jointly, them for that purpose by such incumbent, to state, in writing
after state- under his or their hand or hands, the reason why such bene-
ment of fices should be holden together; and in such case it shall
reasons by be lawful for the said incumbent to hold the said two bene-
the bishop. fices together: provided always that in the last-mentioned
case the bishop of the diocese within which such benefice
having a population exceeding two thousand persons is situate,
may from time to time, if he shall so think fit, by an order
under his hand, and revocable at any time, require that such

Proviso as
to resi-
dence on
larger
parish.

incumbent should keep residence on, and personally serve, such benefice during the space of nine months in each year ; and if such incumbent shall not, in obedience to the terms of such order, and until the same be revoked, reside on, and personally serve such benefice, he shall be liable to all the penalties for non-residence imposed by this act, notwithstanding he may have a legal exemption permanent or temporary from residence, or may be resident on some other benefice of which he may be possessed, or may be performing the duties of an office, and the performance of the duties of which might in other cases be accounted as residence on some benefice : provided always that such spiritual person may, within one month after service upon him of any such order, appeal to the archbishop of the province, who shall confirm or rescind such order as to him may seem just and proper.

VI. Provided always, and be it enacted, that before any spiritual person shall be allowed to hold any two benefices together under any provision of this act, it shall be necessary for such person to obtain from the archbishop of Canterbury for the time being a licence or dispensation for the holding thereof ; which licence or dispensation the said archbishop is hereby empowered to grant under the seal of his Office of Faculties, upon being satisfied as well of the fitness of the person as of the expediency of allowing such two benefices to be holden together, and that such licence or dispensation shall issue in such manner and form as the said archbishop shall think fit : and for such licence or dispensation there shall be paid to the registrar of the said office the sum of thirty shillings and no more, and to the seal-keeper thereof the sum of two shillings and no more ; and that no stamp duty, nor any other fee, save as hereinbefore mentioned, shall be payable on the licence or dispensation to be granted as aforesaid, nor shall any confirmation thereof be necessary ; nor shall it be required of any spiritual person applying for any such licence or dispensation to give any caution or security, by bond or otherwise, before such licence or dispensation is granted ; and if the said archbishop of Canterbury shall refuse or deny to grant any such licence or dispensation as aforesaid, it shall be lawful for her Majesty, if she, by the advice of her Privy Council, shall think fit, upon application

Licence or dispensation to hold together any two benefices must be obtained from the archbishop of Canterbury.

by the person to whom such licence or dispensation shall have been refused or denied, to enjoin the said archbishop to grant such licence or dispensation, or to show to her Majesty in council sufficient cause to the contrary, and thereupon to make such order touching the refusal or grant of such licence or dispensation as to her Majesty in council shall seem fit; and such order shall be binding upon the archbishop.

A statement of certain particulars to be made by every spiritual person to the bishop of the diocese previous to application for a licence or dispensation.

VII. And be it further enacted, that where any spiritual person shall be desirous of obtaining a licence or dispensation for holding together any two benefices, such spiritual person shall, previously to applying for the grant of such licence or dispensation, deliver to the bishop of the diocese, where both benefices are situate in the same diocese, or to the bishops of the two dioceses, where such benefices are situate in different dioceses, a statement in writing under his hand, verified as such bishop or bishops respectively may require, according to a form or forms to be promulgated from time to time by the archbishop of Canterbury and approved by the Queen in council; in which statement such spiritual person shall set forth, according to the best of his belief, the yearly income arising from each of the said benefices, separately on an average of the three years ending on the twenty-ninth day of September next before the date of such statement, and the sources from which such income is derived, and also the yearly amount, on an average of the same period of three years, of all taxes, rates, tenths, dues, and other permanent charges and outgoings to which the same benefices are respectively subject, and also the amount of the population of each of the said benefices, to be computed according to the last returns made under the authority of parliament, and also the distance between the two benefices, to be computed according to the directions of this act; and it shall be lawful for the bishop to whom such statement shall be delivered to make any inquiry which he may think right as to the correctness of the same in respect to the benefices or benefice within his diocese; and such bishop is hereby required, within the space of one month after he shall have received such statement as aforesaid, to transmit to the archbishop of Canterbury a certificate under his hand, in which certificate such bishop shall set forth, or shall annex thereto, a copy of the statement

Bishop may make inquiry as to the accuracy of statement. Bishop to transmit a certificate to the archbishop of

delivered to him as aforesaid, and shall thereby certify the amount at which he considers that the annual value and the population of each of the two benefices (where both benefices are situated in the same diocese), and the distance of the said two benefices from each other, or the amount at which he considers the annual value and the population of the benefice within the diocese of such bishop (where the two benefices are situate in different dioceses); and the distance of such benefice from the other benefice, ought to be taken, with respect to the licence or dispensation in question; and whenever both or either of the benefices shall be in the diocese or jurisdiction of the archbishop of Canterbury, a certificate shall be made out in manner aforesaid by the archbishop and shall be retained by him.

Canterbury, setting forth copy of the statement made to the bishop, and other particulars.

VIII. And be it further enacted, that in estimating the annual value of any benefice for the purpose of any such certificate as aforesaid, it shall be lawful for the archbishop or bishop by whom such certificate shall be made, and every such archbishop and bishop is hereby directed, to deduct from the gross amount of the yearly income arising from such benefice all taxes, rates, tenths, dues, and other permanent charges and outgoings to which such benefice shall be subject, but not to deduct or allow for any stipend or stipends to any stipendiary curate or curates, nor for such taxes or rates in respect of the house of residence on any benefice, or of the glebe land belonging thereto, as are usually paid by tenants or occupiers, nor for monies expended in the repair or improvement of the house of residence and buildings and fences belonging thereto.

How annual value of two benefices to be held together by dispensation to be estimated.

IX. And be it further enacted, that the certificate or certificates to be transmitted to or retained by the archbishop of Canterbury as aforesaid shall be deposited in the said Office of Faculties; and, in the event of the required licence or dispensation being granted, shall, for the purposes of this act, be conclusive evidence of the annual value and population of each of the benefices to which the same shall relate, and of their distance from each other; and the registrar of the faculties shall, and he is hereby required to, produce such certificate or certificates to any person who may require to inspect the same.

Certificate to be deposited in Office of Faculties; and to be conclusive evidence of value, population, and distance.

In other cases how annual value to be estimated.

X. And be it further enacted, that, for all the other purposes of this act, the annual value of all benefices shall be the net annual value thereof, to be estimated in the same manner as is hereinbefore directed for the purpose of any such certificate as aforesaid; and that it shall be lawful for the court before whom any suit shall be depending for the recovery of any penalty or forfeiture under this act, and for any bishop acting under any of the provisions of this act, to make or cause to be made, such inquiries, and call for such evidence as such court or bishop shall think fit; and otherwise to proceed upon the best information which such court or bishop may be able to procure, for estimating in manner aforesaid the annual value of any benefice: and with respect to the same, the decision of such court or of such bishop, founded on such evidence or other information, shall be final and conclusive, save when appealed from in due course of law.

Acceptance of preferment contrary to this act vacates the former preferment.

XI. And be it enacted, that if any spiritual person, holding any cathedral preferment or benefice, shall accept any other cathedral preferment or benefice, and be admitted, instituted, or licensed to the same contrary to the provisions of this act, every cathedral preferment or benefice so previously held by him shall be and become *ipso facto* void, as if he had died or had resigned the same, any law, statute, canon, usage, custom, or dispensation to the contrary notwithstanding: and if any spiritual person holding any two or more benefices shall accept any cathedral preferment, or any other benefice, or if any spiritual person holding two or more cathedral preferments shall accept any benefice, or if any spiritual person holding any cathedral preferment or preferments, and benefice or benefices, shall accept another benefice, he shall, before he is instituted, licensed, or in any way admitted to the said cathedral preferment or benefice, in writing under his hand, declare to the bishop or bishops within whose diocese or dioceses any of the cathedral preferments or benefices previously holden by him are situate, which cathedral preferment and benefice, or which two benefices (such two benefices being tenable together under the provisions of this act) he proposes to hold together; and a duplicate of such declaration shall by such spiritual person be transmitted to the registry of the diocese, and be there

filed ; and immediately upon any such spiritual person being instituted, licensed, or in any way admitted to the cathedral preferment or benefice which he shall have accepted as aforesaid, such cathedral preferment or preferments, benefice or benefices as he previously held, and as he shall not as aforesaid have declared his intention to hold, or such benefice as shall not be tenable under the provisions of this act with such newly-accepted benefice, shall be and become *ipso facto* void, as if he had died or had resigned the same : and if such spiritual person shall in any such case refuse or wilfully omit to make such declaration as aforesaid, every cathedral preferment and benefice which he previously held shall be and become *ipso facto* void as aforesaid : provided always, that nothing herein-contained shall be construed to affect the provision hereinbefore made with respect to archdeacons, or with respect to spiritual persons holding, with any cathedral preferment, and with or without a benefice, offices in the same cathedral or collegiate church.

XII. And be it enacted, that nothing hereinbefore contained shall be construed to prejudice or affect the right of possession in any cathedral preferment or benefice to which any spiritual person shall have been collated, admitted, instituted, or licensed, or which shall have been otherwise granted to any spiritual person before the passing of this act, unless he shall, after the passing of this act, accept or take some cathedral preferment or benefice contrary to the provisions of this act. Present rights of possession saved.

XIII. And be it enacted, that nothing in this act contained shall be construed to prevent any spiritual person possessed of one or more than one benefice at the time of the passing of this act, and to whom, or in trust for whom, the advowson of, or the next presentation or nomination to any other benefice has been conveyed, granted, or devised by any deed or will made before the twenty-third day of December one thousand eight hundred and thirty-seven, from taking the said last-mentioned benefice, and holding together such benefice, and any one such first mentioned benefice (although the benefices to be held together be not within the limits, nor under the joint yearly value, nor the population thereof under the amount, prescribed by this act) ; but so neverthe-

less that the said two benefices be such as might have been held together before the passing of this act by dispensation duly granted and confirmed : and the bishop of the diocese in which such second or other benefice is situate shall and may, after a licence or dispensation shall have been obtained by such spiritual person as is by this act required for holding two benefices together, admit, institute, or license such spiritual person thereto, any thing herein-contained to the contrary notwithstanding ; unless such spiritual person, after the passing of this act, and before he shall be so admitted, instituted, or licensed to such second or other benefice as aforesaid, shall have accepted and taken any cathedral preferment or any other benefice, the holding of which with such second or other benefice would be contrary to the provisions of this act.

Saving as
to former
chaplains
to the
House of
Commons.

XIV. Provided also, and be it enacted, that nothing hereinbefore contained shall be construed to prevent the reverend Frederick Vernon Lockwood, the reverend Edward Repton, or the reverend Temple Frere, formerly chaplains to the House of Commons, from taking and holding with any benefice of which any of them was in possession at the time of the passing of this act, any cathedral preferment, or any benefice which may be conferred on them, or either of them, by her Majesty, in consideration of their respective services as such chaplains ; although any such benefices be not within the limits nor under the joint yearly value, nor the population thereof under the amount, prescribed by this act.

Acts
37 Hen. 8,
c. 21, and
17 Car. 2,
c. 3, for
uniting
churches
repealed ;

XV. And whereas it is expedient to alter and amend the provisions made by an act passed in the thirty-seventh year of the reign of King Henry the Eighth, intituled, " An act for the union of churches not exceeding the value of six pounds ;" and by another act passed in the seventeenth year of the reign of King Charles the Second, intituled, " An act for uniting churches in cities and towns corporate² ;" be it enacted that the said last-recited acts shall be and the same are hereby repealed.

and their
provisions

XVI. And be it enacted, that whenever it shall appear to the archbishop of the province, with respect to his own

² This act is partially revived by 6 & 7 Vict. c. 37, s. 25.

diocese, and whenever it shall be represented to him by the bishop of any diocese, or by the bishops of any two dioceses, that two or more benefices, or that one or more benefice or benefices, and one or more spiritual sinecure rectory or rectories, vicarage or vicarages, in his or their diocese or dioceses (being either in the same parish or contiguous to each other, and of which the aggregate population shall not exceed one thousand five hundred persons, and the aggregate yearly value shall not exceed^{*} five hundred pounds), may, with advantage to the interests of religion, be united into one benefice, the said archbishop of the province shall inquire into the circumstances of the case; and if on such inquiry it shall appear to him that such union may be usefully made, and will not be of inconvenient extent, and that the patron or patrons of the said benefices, sinecure rectory or rectories, vicarage or vicarages respectively, is or are consenting thereto, such consent being signified in writing under the hands of such patron or patrons, the said archbishop shall, six weeks before certifying such inquiry and consent to her Majesty as hereinafter directed, cause, with respect to his own diocese, a statement in writing of the facts, and in other cases a copy in writing of the aforesaid representation, to be affixed on or near the principal outer door of the church, or in some public and conspicuous place in each of such benefices, sinecure rectories, or vicarages, with notice to any person or persons interested, that he, she, or they may, within such six weeks, show cause, in writing under his, her, or their hand or hands, to the said archbishop against such union; and if no sufficient cause be shown within such time, the said archbishop shall certify the inquiry and consent aforesaid to her Majesty in council; and thereupon it shall be lawful for her Majesty in council to make and issue an order or orders for uniting such benefices, sinecure rectory or rectories, vicarage or vicarages, into one benefice, with cure of souls, for ecclesiastical purposes only; and it shall be lawful for her Majesty in council to give directions for regulating the course and suc-

^{*} See act 18 & 19 Vict. c. 127, as to exchange of advowsons, and sect. 8 of the act 13 & 14 Vict. c. 98, by which the enactment as to unions is extended.

cession in which the patrons, if there be more than one patron, shall present or nominate to such united benefice from time to time as the same shall become vacant, and for determining, if such united benefice shall be in two dioceses, to which of such dioceses such benefice shall belong; and such order or orders shall be registered in the registry or registries of the diocese or respective dioceses to which such united benefice shall be determined to belong, and to which either or any of the united benefices, sinecure rectories, or vicarages shall have belonged when separate; which order or orders the registrar or registrars of such diocese or respective dioceses, immediately on the receipt thereof, are hereby required to register accordingly; and such order or orders shall thenceforth be binding on all parties whatsoever: and if at the time of the registration of such order or orders all the benefices, sinecure rectories, or vicarages ordered to be united shall not be holden by the same incumbent, then if any of such benefices, sinecure rectories, or vicarages shall at such time be vacant (and if not, then upon every avoidance, until all the said benefices, sinecure rectories, or vicarages but one shall come to be holden by the same incumbent), the patron of the vacant benefice or benefices, sinecure rectory or rectories, vicarage or vicarages, shall be bound to present or nominate, and the bishop shall be bound to admit and institute or license, to the vacant benefice or benefices, sinecure rectory or rectories, vicarage or vicarages, the incumbent of the other or one of the other benefices, sinecure rectory or rectories, vicarage or vicarages, so ordered to be united; and if both, or all (as the case may be), shall be holden by the same incumbent at the time of the registration of such order or orders, or all but one of the said benefices, sinecure rectories, or vicarages shall at such time be vacant, then immediately, or otherwise on the first avoidance of either or any of such benefices, sinecure rectories, or vicarages, after all but one shall have come to be holden by the same incumbent, the said benefices, sinecure rectory or rectories, vicarage or vicarages shall become permanently united together, and shall be and be deemed and taken to be one benefice, with cure of souls, to all intents and purposes; unless and until the same shall be afterwards disunited in the

manner hereinafter enacted : Provided always, that notwithstanding any such union the parishes or places of which such united benefice shall consist shall continue distinct as to all secular rates, taxes, charges, duties, and privileges, and in all other respects except as hereinbefore specified.

XVII. And be it enacted, that when it shall further appear to the archbishop of the province, with respect to his own diocese, or it shall be further represented to him by the bishop of any other diocese, that the total income of any benefice or benefices, sinecure rectory or rectories, vicarage or vicarages, proposed to be united as aforesaid, would be larger than sufficient for the due maintenance and support of the incumbent of the benefice when united, and that the whole or some specified part or parts of the glebe lands, tithes, rent-charges, tenements, and hereditaments belonging to the benefice or benefices, sinecure rectory or rectories, vicarage or vicarages proposed to be united, or any of them, might and could, with advantage to the interests of religion, be excepted out of such union, and be exchanged for certain other lands, tithes, tenements, and hereditaments or any of them, in some other specified benefice situate in the same diocese, and having no competent provision belonging thereto, and that the lands, tithes, tenements, or hereditaments proposed to be given in exchange for such excepted lands, tithes, rent-charges, tenements, or hereditaments might with like advantage be granted, conveyed, and assured as a further perpetual endowment for the incumbent of such last-mentioned benefice ; and that the patron or patrons of the said benefice or benefices, sinecure rectory or rectories, vicarage or vicarages respectively, and the incumbent or incumbents for the time being thereof respectively (or of such thereof as shall not be then vacant), and the owner or owners, proprietor or proprietors of such lands, tithes, tenements, or hereditaments respectively so proposed to be given in exchange, is or are consenting thereto, such consent to be signified in writing under their respective hands, it shall be lawful for the said archbishop, after inquiring into such further matter, to certify in like manner as aforesaid such further circumstances to her Majesty in council : and thereupon it shall be lawful for her Majesty, in and by such order

Glebe lands, &c., may in certain cases be excepted out of any united benefice to augment the provision for any other adjoining poor benefice by an exchange in such manner that the augmentation shall be situate within the limits of such other benefice.

as aforesaid, or any other order or orders, to direct that such first-mentioned lands, tithes, rent-charges, tenements, and hereditaments shall be excepted out of such united benefice, and be granted, conveyed, and assured unto such owner or owners, impropiator or impropiators as aforesaid, in exchange for an equal value of lands, tithes, tenements, or other hereditaments situate or arising within the limits of such benefice, to be by such owner or owners, impropiator or impropiators, granted, conveyed, and assured for the further endowment of such other benefice ; and such order or orders shall be registered in the registry of the diocese to which such united benefice and other benefice shall belong ; and which order or orders the registrar of such diocese, immediately on the receipt thereof is hereby required to register accordingly ; and such order or orders shall thenceforth be binding on all parties whatsoever : and such lands, tithes, tenements, and hereditaments so directed to be granted, conveyed, and assured to such owner or owners, impropiator or impropiators as aforesaid, shall immediately upon and after the execution and enrolment in manner hereinafter directed of the deed or deeds, instrument or instruments, hereinafter mentioned, be for ever freed and discharged of and from all estate, right, title, and interest whatsoever of all and every the incumbent or incumbents for the time being of the same benefices, sinecure rectory or rectories, vicarage or vicarages so to be united, and become and be subject and liable in every respect to all and singular the uses, trusts, estates, and charges of or to which the lands, tithes, rent-charges, tenements, or other hereditaments so granted, conveyed or assured by such owner or owners, impropiator or impropiators, for such further endowment as aforesaid, may at the time of such execution have been subject or liable : and that such last-mentioned lands, tithes, rent-charges, tenements, or other hereditaments so granted, conveyed, and assured by such owner or owners, impropiator or impropiators, for such further endowment as aforesaid, shall in like manner become and be for ever annexed to such other benefice for the further endowment of which the same shall be so granted, conveyed, and assured ; and be held and enjoyed for ever by the incumbent for the time being thereof

as part of the endowment thereof, freed and discharged of and from all uses, trusts, estates, and charges whatsoever to which the same respectively, or any part thereof, were or was before subject or liable.

XVIII. Provided always, and be it further enacted, that all such grants, conveyances, and assurances as aforesaid shall be made by a deed or deeds, instrument or instruments in writing, under the hand and seal or hands and seals of the patron or patrons of the benefice or benefices, sinecure rectory or rectories, vicarage or vicarages affected thereby, and of the owner or owners, impropiator or impropiators of the lands, tithes, tenements, and hereditaments so to be given in exchange as aforesaid; and the bishop of the diocese for the time being shall testify his approval thereof by being a party and affixing his episcopal seal thereto; and the incumbent or incumbents for the time being of such of the said benefice or benefices, sinecure rectory or rectories, vicarage or vicarages, as shall not be then vacant, shall testify his or their approval by being a party or parties to and signing the same respectively; and shall be the party or parties by whom the grant, conveyance, and assurance to be made or executed to such owner or owners, impropiator or impropiators, as aforesaid shall be made and executed; and such deed or deeds, instrument or instruments in writing, shall be enrolled in her Majesty's High Court of Chancery within six calendar months after the execution thereof respectively, or else have no operation under this act.

XIX. Provided always, and be it enacted, that the approval of the said bishop, testified as aforesaid, shall be conclusive that the lands, tithes, rent-charges, tenements and hereditaments so to be granted, conveyed, and assured under or by virtue of the provisions aforesaid, were respectively of the proper value required by this act, and were respectively granted, conveyed, and assured in due accordance with the provisions aforesaid.

XX. Provided also, and be it enacted, that from and after the passing of this act, it shall not be lawful to unite two or more benefices into one benefice in any other form or manner or under any other circumstances than is hereinbefore provided; and that if any such union shall be made in any other

Such conveyances in exchange to be by deed in writing, under the hands and seals of all parties interested, to be enrolled in Chancery.

Approval of bishop of the diocese.

No union except under this act.

form or manner, or under any other circumstances than as it is hereinbefore provided, the same shall be void to all intents and purposes whatsoever; any statute, law, canon, custom, or usage to the contrary notwithstanding.

Provisions
for partly
disuniting
united
benefices.

XXI. And whereas from the increase of population, or from other circumstances, it may be expedient that two or more benefices which have been heretofore united, or which may be hereafter united under the provisions of this act, should be disuniting; be it enacted, that when two or more benefices shall have been united, or may be hereafter united into one benefice, and, with respect to his own diocese, it shall appear to the archbishop of the province, or the bishop of any diocese shall represent to the said archbishop of the province, that one or more of the benefices within his diocese of which such united benefice shall consist may be separated therefrom with advantage to the interests of religion, the said archbishop shall inquire into the circumstances of the case, and if on such inquiry it shall appear to him that such union may be usefully dissolved, so far as respects such benefice or benefices, he shall, six weeks at least before certifying such inquiry to her Majesty as hereinafter directed, cause, with respect to his own diocese, a statement in writing of the facts, and in all other cases a copy in writing of the aforesaid representation, to be affixed on or near the principal outer door of the church, or in some public and conspicuous place in each of the benefices forming part of the united benefice, with notice to any person or persons interested, that he, she, or they may, within such six weeks, show cause in writing, under his, her, or their hands, to the said archbishop against any such disunion; and if no sufficient cause be shown within such time, the archbishop shall certify the inquiry and consent, when the patron's consent is necessary, to her Majesty in council; and thereupon it shall be lawful for her Majesty to issue an order for separating such last-mentioned benefice or benefices from such united benefice, and for declaring the rights of patronage of the several patrons, if there be more than one patron; and such order shall be registered in the registry of the diocese to which such united benefice shall belong; which order the registrar of such diocese, immediately on the receipt thereof, is hereby

required to register accordingly ; and thereupon immediately if such united benefice shall be then vacant, otherwise on the first avoidance thereof, such union shall be *ipso facto* dissolved so far only as regards such benefice or benefices so proposed to be separated from such united benefice, but in all other respects shall remain in full force and effect ; and thenceforward such last-mentioned benefice or benefices shall be and be deemed and taken to be a separate and distinct benefice or benefices to all intents and purposes whatever as if no such union had taken place ; and the patron or patrons thereof shall and may, according to the terms of such order, present or nominate thereto respectively, and so from time to time upon each and every avoidance of the same : provided always, that no benefices which have been united for more than sixty years before the passing of this act shall be disunited without the consent in writing of the patron or patrons thereof.

XXII. And be it enacted, that in any case in which her Majesty in council shall have issued any such order as aforesaid, for separating one or more benefices from such united benefice, it shall be lawful for the incumbent thereof, if such united benefice shall be full at the time of issuing such order, to resign the benefice or benefices so proposed to be separated as aforesaid from such united benefice ; and thereupon it shall be lawful for the respective patron or patrons of such last-mentioned benefice or benefices to present or nominate thereto, in the same manner as if such united benefice had been vacant at the time of issuing such order.

XXIII. And be it enacted, that whenever two or more benefices which have at any time been united into one benefice shall be disunited and become separate benefices under the provisions of this act, whether the order for disunion shall extend to the whole number of benefices of which such united benefice consisted, or to one or more of such benefices only, it shall be lawful for her Majesty in council, on the recommendation of the archbishop of the province, with the consent of the patron or patrons of such benefices respectively (such consent to be signified in writing under the hands of such patron or patrons), to assign and attach such portion of the glebe lands, tithes, moduses, rent-charges, or

Incumbent
may resign
one or
more of
disunited
benefices,
and patron
may
present.

Portion of
glebe, &c.,
may be
assigned to
each of the
dissevered
benefices ;

other endowments or emoluments belonging to or arising or accruing within the limits of such united benefice to each of such benefices respectively, as to her Majesty in council shall seem fit, notwithstanding such proportion of glebe land, tithes, rent-charges, moduses, or other endowments or emoluments, or any part thereof, may not arise or accrue within the limits of the benefice to which the same shall be so assigned and attached as aforesaid, or may not have belonged thereto; and also to divide and apportion between such benefices all such charges and outgoings as before the disunion thereof were imposed upon the whole united benefice, and in the case of mortgages, with the consent of the mortgagees in writing under their hands and seals.

and shall
belong to
the in-
cumbent.

XXIV. And be it enacted, that all such lands, tithes, rent-charges, moduses, or other endowments or emoluments, when so assigned and attached as aforesaid, shall belong to, and the same, and the rents and profits thereof, shall be recoverable by the incumbent of the benefice, to which the same shall have been so assigned and attached.

More than
one house
may be
provided in
disunited
benefices.

XXV. And whereas by an act passed in this present session of parliament, intituled, "An act to amend the law for providing fit houses for the beneficed clergy," provision is made in certain cases for selling the residence house and appurtenances belonging to any benefice, together with a certain portion of land contiguous thereto, and for applying the proceeds of such sale to the erection or purchase of some house, or the purchase of an orchard, garden, or land, for the residence and occupation of the incumbent of such benefice: and whereas it may happen that in the case of benefices disunited under the provisions of this act, or divided or separately endowed under the provisions of two acts passed in the fifty-eighth year and in the fifty-ninth year of his Majesty King George the Third, for building and promoting the building of additional churches in populous parishes, and for amending and rendering more effectual the said act, the existing benefice-house may be inconveniently situated for any one of such disunited parishes, or of the divisions of such divided benefices, or may be on too large and expensive a scale to be conveniently maintained by the incumbent of any such disunited or divided benefice; be it enacted, that

58 Geo. 3,
c. 45.
59 Geo. 3,
c. 134.

all the provisions of the said recited act of this present session relating to the sale of the house, gardens, orchards, appurtenances, or land attached to any benefice, and the application of the proceeds of such sale, shall be and be deemed applicable to the case of any benefice divided or separately endowed under the provisions of the said acts, or either of them, of his Majesty King George the Third, and of any benefice disunited under the provisions of this act; and that the proceeds of such sale may be applied and disposed of by the governors of the bounty of Queen Anne in and towards the erection or purchase of such and so many houses, or in and towards the purchase of so many gardens or appurtenances, or of so much land as shall be required for the residence of an incumbent, within each of the parishes so disunited, or each of the divisions of the benefices so divided, in such proportions within each such benefice respectively as shall be proved by the archbishop of the province, with the consent of the patron and ordinary, and (if the benefice be full) of the incumbent of the benefice, such consents to be signified in writing under their respective hands, and shall be confirmed by her Majesty in council.

XXVI. And whereas in some instances tithings, hamlets, chapelries, and other places or districts may be separated from the parishes or mother churches to which they belong with great advantage, and places altogether extra-parochial may in some instances with advantage be annexed to parishes or districts to which they are contiguous, or be constituted separate parishes for ecclesiastical purposes; be it enacted, that when, with respect to his own diocese, it shall appear to the archbishop of the province, or when the bishop of any diocese shall represent to the said archbishop that any such tithing, hamlet, chapelry, place, or district within the diocese of such archbishop, or the diocese of such bishop, as the case may be, may be advantageously separated from any parish or mother church, and either be constituted a separate benefice by itself or be united to any other parish to which it may be more conveniently annexed, or to any other adjoining tithing, hamlet, chapelry, place or district, parochial or extra-

Provi-
sions for
annexing
isolated
places to
the con-
tiguous
parishes,
or making
them
separate
benefices.

⁴ Extended by 2 & 3 Vict. c. 49, ss. 6, 7, 8.

parochial, so as to form a separate parish or benefice, or that any extra-parochial place may with advantage be annexed to any parish to which it is contiguous, or be constituted a separate parish for ecclesiastical purposes; and the said archbishop or bishop shall draw up a scheme in writing (the scheme of such bishop to be transmitted to the said archbishop for his consideration), describing the mode in which it appears to him that the alteration may best be effected, and how the changes consequent on such alteration in respect to ecclesiastical jurisdiction, glebe lands, tithes, rent-charges, and other ecclesiastical dues, rates, and payments, and in respect to patronage and rights to pews, may be made with justice to all parties interested; and if the patron or patrons of the benefice or benefices to be affected by such alteration shall consent in writing under his or their hands to such scheme or to such modification thereof as the said archbishop may approve, and the said archbishop shall, on full consideration and inquiry, be satisfied with any such scheme or modification thereof, and shall certify the same and such consent as aforesaid, by his report to her Majesty in council, it shall be lawful for her Majesty in council to make an order for carrying such scheme, or modification thereof, as the case may be, into effect; and such order being registered in the registry of the diocese, which the registrar is hereby required to do, shall be forthwith binding on all persons whatsoever, including the incumbent or incumbents of the benefice or benefices to be affected thereby, if he or they shall have consented thereto in writing under his or their hands; but if such incumbent or incumbents shall not have so consented thereto, the order shall not come into operation until the next avoidance of the benefice by the incumbent objecting to the alteration, or by the surviving incumbent objecting if more than one shall object thereto; and in such case the order shall forthwith, after such avoidance, become binding on all persons whatsoever.

Power of
adjusting
disputes
arising out
of the
foregoing
alterations

XXVII. And whereas the changes effected by virtue of the provisions aforesaid for uniting or disuniting benefices, and for altering the contents of parishes, may, when the orders for those purposes respectively come into operation, raise doubts and create disputes not foreseen at the time

when such orders may have been made respecting ecclesiastical jurisdiction, glebe lands, tithes, rent-charges, and other ecclesiastical dues, rates, and payments, patronage, right to pews, and the definition of local boundaries ; be it enacted, that it shall be lawful for her Majesty in council at any time within five years after such orders respectively shall come into full operation, if occasion shall arise, to make a supplemental order for removing such doubts and settling such disputes ; and every such supplemental order shall have the same force and effect as if it had formed part of the original order made under the provisions of this act : provided always, that in every case in which the contents of parishes shall be so altered such alteration shall not in any way affect the secular rates, taxes, charges, duties or privileges of such parishes, or of any part of them.

XXVIII. And be it enacted, that it shall not be lawful for any spiritual person holding any cathedral preferment or benefice, or any curacy or lectureship, or who shall be licensed or otherwise allowed to perform the duties of any ecclesiastical office whatever, to take to farm for occupation by himself, by lease, grant, words, or otherwise, for term of life or of years, or at will, any lands exceeding eighty acres in the whole, for the purpose of occupying or using or cultivating the same, without the permission in writing of the bishop of the diocese specially given for that purpose under his hand ; and every such permission to any spiritual person to take to farm for the purpose aforesaid any greater quantity of land than eighty acres shall specify the number of years, not exceeding seven, for which such permission is given ; and every such spiritual person who shall without such permission so take to farm any greater quantity of land than eighty acres, shall forfeit, for every acre of land above eighty acres so taken to farm, the sum of forty shillings for each year during or in which he shall so occupy, use, or cultivate such land contrary to the provision aforesaid.

XXIX. And be it enacted, that it shall not be lawful for any spiritual person holding any such cathedral preferment, benefice, curacy, or lectureship, or who shall be licensed or allowed to perform such duties as aforesaid, by himself or by any other for him or to his use, to engage in or carry on any

Spiritual persons not to take to farm for occupation above eighty acres, without consent of the bishop, and then not beyond seven years, under penalty of 40s. per acre.

No spiritual person benefited or performing ecclesiastical

duty, shall engage in trade or buy to sell again for profit or gain. trade or dealing for gain or profit, or to deal in any goods, wares, or merchandize, unless in any case in which such trading or dealing shall have been or shall be carried on by or on behalf of any number of partners exceeding the number of six, or in any case in which any trade or dealing, or any share in any trade or dealing, shall have devolved or shall devolve upon any spiritual person, or upon any other person for him or to his use, under or by virtue of any devise, bequest, inheritance, intestacy, settlement, marriage, bankruptcy, or insolvency; but in none of the foregoing excepted cases shall it be lawful for such spiritual person to act as a director or managing partner, or to carry on such trade or dealing as aforesaid in person.

Not to extend to spiritual persons engaged in keeping schools, or as tutors, &c., in respect of any thing done, or any buying or selling in such employment; or to selling any thing bona fide bought for the use of the family, or to being a manager, &c. in any benefit or life or fire assurance society; or buying and selling cattle, &c. for the use of his own lands, &c.

XXX. Provided always, and be it enacted, that nothing hereinbefore contained shall subject to any penalty or forfeiture any spiritual person for keeping a school or seminary, or acting as a schoolmaster or tutor or instructor, or being in any manner concerned or engaged in giving instruction or education for profit or reward, or for buying or selling or doing any other thing in relation to the management of any such school, seminary, or employment, or to any spiritual person whatever for the buying of any goods, wares, or merchandizes, or articles of any description, which shall without fraud be bought with intent, at the buying thereof, to be used by the spiritual person buying the same, for his family or in his household, and after the buying of any such goods, wares, or merchandizes, or articles, selling the same again or any parts thereof which such person may not want or choose to keep, although the same shall be sold at an advance price beyond that which may have been given for the same; or for disposing of any books or other works to or by means of any bookseller or publisher; or for being a manager, director, partner, or shareholder in any benefit society, or fire or life assurance society, by whatever name or designation such society may have been constituted; or for any buying, or selling again for gain or profit, of any cattle or corn or other articles necessary or convenient to be bought, sold, kept, or maintained by any spiritual person, or any other person for him or to his use, for the occupation, manuring, improving, pasturage, or profit of any glebe, demesne lands,

or other lands or hereditaments which may be lawfully held and occupied, possessed, or enjoyed by such spiritual person, or any other for him or to his use ; or for selling any minerals the produce of mines situated on his own lands ; so nevertheless that no such spiritual person shall buy or sell any cattle or corn or other articles as aforesaid in person in any market, fair, or place of public sale.

XXXI. And be it enacted, that if any spiritual person shall trade or deal in any manner contrary to the provisions of this act, it shall be lawful for the bishop of the diocese where such person shall hold any cathedral preferment, benefice, curacy, or lectureship, or shall be licensed or otherwise allowed to perform the duties of any ecclesiastical office whatever, to cause such person to be cited before his chancellor or other competent judge, and it shall be lawful for such chancellor or other judge, on proof in due course of law of such trading, to suspend such spiritual person for his first offence, for such time not exceeding one year as to such judge shall seem fit ; and on proof in like manner before such or any other competent ecclesiastical judge of a second offence committed by such spiritual person subsequent to such sentence of suspension, such spiritual person shall, for such second offence, be suspended for such time as to the judge shall seem fit ; and for his third offence be deprived *ab officio et beneficio*, and thereupon it shall be lawful for the patron or patrons of any such cathedral preferment, benefice, lectureship, or office to make donation, or to present or nominate to the same as if the person so deprived were actually dead ; and in all such cases of suspension, the bishop, during such suspension, shall sequester the profits of any cathedral preferment, benefice, lectureship, or office of which such spiritual person may be in possession, and by an order under his hand direct the application of the profits of the same respectively, after deducting the necessary expenses of providing for the due performance of the duties of the same respectively, towards the same purposes and in the same order, as near as the difference of circumstances will admit as are hereinafter directed with respect to the profits of a benefice sequestered in case of non-compliance after monition with an order requiring a spiritual person to proceed and reside on his bene-

Spiritual persons illegally trading may be suspended, and for the third offence deprived.

fice, save that no part of such profits shall be paid to the spiritual person so suspended nor applied in satisfaction of a sequestration at the suit of a creditor; and in case of deprivation, the bishop shall forthwith give notice thereof in writing under his hand to the patron or patrons of any cathedral preferment, benefice, lectureship, or office which the said spiritual person may have holden, in the manner hereinafter required with respect to notice to the patron of a benefice continuing under sequestration for one whole year, and thereby becoming void, and any such cathedral preferment or benefice shall lapse at such period after the said notice, as any such last-mentioned benefice would, under the provisions of this act, lapse: provided always, that no contract shall be deemed to be void by reason only of the same having been entered into by a spiritual person trading or dealing, either solely or jointly with any other person or persons, contrary to the provisions of this act, but every such contract may be enforced by or against such spiritual person, either solely or jointly with any other person or persons, as the case may be, in the same way as if no spiritual person had been party to such contract.

Penalties
for non-
residence,
on incum-
bent not
having a
licence or
exemption,
unless he
be resident
on another
benefice.

XXXII. And be it enacted, that every spiritual person holding any benefice shall keep residence on his benefice, and in the house of residence (if any) belonging thereto; and if any such person shall, without any such licence or exemption as is in this act allowed for that purpose, or unless he shall be resident at some other benefice of which he may be possessed, absent himself from such benefice, or from such house of residence, if any, for any period exceeding the space of three months together, or to be accounted at several times in any one year, he shall, when such absence shall exceed three months and not exceed six months, forfeit one third part of the annual value of the benefice from which he shall so absent himself; and when such absence shall exceed six months and not exceed eight months, one half part of such annual value; and when such absence shall exceed eight months, two third parts of such annual value; and when such absence shall have been for the whole of the year, three fourth parts of such annual value.

Where no

XXXIII. And be it enacted, that it shall be lawful for

any bishop, upon application in writing by any spiritual person holding any benefice within his diocese, whereon there shall be no house or no fit house of residence, by licence under his hand and seal, to be registered in the registry of the diocese, which the registrar is hereby required to do, to permit such person to reside in some fit and convenient house, although not belonging to such benefice, such house to be particularly described and specified in such licence, and for a certain time to be therein also specified, not exceeding the period by this act limited, and from time to time, as such bishop may think fit, to renew such licence; and every such house shall be a legal house of residence for such specified time to all intents and purposes: provided always, that no such licence shall be granted to such spiritual person to reside in any house unless it be within three miles of the church or chapel of such benefice, nor in case such church or chapel be in any city, or market or borough town, unless such house be within two miles of such church or chapel.

XXXIV. And whereas the governors of the bounty of Queen Anne have purchased, built, or procured, and may hereafter purchase, build, or procure, by way of benefaction or donation to poor benefices, houses not situate within the parishes or places wherein such benefices lie, but so near thereto as to be sufficiently convenient and suitable for the residence of the officiating ministers thereof; be it therefore enacted, that such houses, having been previously approved by the bishop of the diocese, by writing under his hand and seal duly registered in the registry of the diocese, shall be deemed the houses of residence belonging to such benefice to all intents and purposes whatsoever.

XXXV. And be it enacted, that in all cases of rectories having vicarages endowed, or perpetual curacies, the residence of the vicar or perpetual curate in the rectory-house of such benefice shall be deemed a legal residence to all intents and purposes whatever; provided that the house belonging to the vicarage or perpetual curacy be kept in proper repair, to the satisfaction of the bishop of the diocese.

XXXVI. And be it enacted, that from and after the decease of any spiritual person holding any benefice to which

may continue in the house of residence for two months after his decease.

Certain persons exempt from penalties for non-residence.

Privileges for temporary non-residence.

a house of residence is annexed, and in which he shall have been residing at the time of his decease, it shall be lawful for the widow of such spiritual person to occupy such house for any period not exceeding two calendar months after the decease of such spiritual person holding and enjoying therewith the curtilage and garden belonging to such house.

XXXVII. And be it enacted, that no spiritual person, being head ruler of any college or hall within either of the Universities of Oxford or Cambridge, or being warden of the University of Durham, or being head master of Eton, Winchester, or Westminster School, or principal or any professor of the East India college, having been appointed such principal or professor before the time of the passing of this act, and not having respectively more than one benefice with cure of souls, shall be liable to any of the penalties or forfeitures in this act contained for or on account of non-residence on any benefice.

XXXVIII. And be it enacted, that no spiritual person being dean of any cathedral or collegiate church during such time as he shall reside upon his deanery, and no spiritual person having or holding any professorship or any public readership in either of the said universities, while actually resident within the precincts of the university, and reading lectures therein, (provided always, that a certificate under the hand of the vice-chancellor or warden of the university, stating the fact of such residence, and of the due performance of such duties, shall in every such case be transmitted to the bishop of the diocese wherein the benefice held by such spiritual person is situate, within six weeks after the thirty-first day of December in each year;) and no spiritual person serving as chaplain of the Queen's or King's most excellent Majesty, or of the Queen Dowager, or of any of the Queen's or King's children, brethren, or sisters, during so long as he shall actually attend in the discharge of his duty as such chaplain in the household to which he shall belong; and no chaplain of any archbishop or bishop, whilst actually attending in the discharge of his duty as such chaplain; and no spiritual person actually serving as chaplain of the House of Commons, or as clerk of the Queen's or King's closet, or as a deputy clerk thereof, while any such person

shall be actually attending and performing the functions of his office ; and no spiritual person serving as chancellor or vicar-general or commissary of any diocese, whilst exercising the duties of his office ; or as archdeacon, while upon his visitation, or otherwise engaged in the exercise of his archidiaconal functions ; or as dean or subdean, or priest or reader in any of the Queen's or King's royal chapels at Saint James's or Whitehall, or as reader in the Queen's or King's private chapels at Windsor or elsewhere, or as preacher in any of the inns of court, or at the rolls, whilst actually performing the duty of any such office respectively ; and no spiritual person, being provost of Eton college, or warden of Winchester college, or master of the charter-house, or principal of Saint David's college, or principal of King's college, London, during the time for which he may be required to reside and shall actually reside therein respectively, shall be liable to any of the penalties or forfeitures in this act contained for or on account of non-residence on any benefice for the time in any year during which he shall be so as aforesaid resident, engaged, or performing duties, as the case may be, but every such spiritual person shall, with respect to residence on a benefice under this act, be entitled to account the time in any year during which he shall be so as aforesaid resident, engaged, or performing duties, as the case may be, as if he had legally resided during the same time on some other benefice ; any thing in this act contained to the contrary notwithstanding.

XXXIX. And be it enacted, that it shall be lawful for any spiritual person, being prebendary, canon, priest vicar, vicar choral, or minor canon in any cathedral or collegiate church, or being a fellow of one of the said colleges of Eton or Winchester, who shall reside and perform the duties of such office during the period for which he shall be required to reside and perform such duties by the charter or statutes of such cathedral or collegiate church or college, as the case may be, to account such residence as if he had resided on some benefice : provided always, that nothing herein contained shall be construed to permit or allow any such prebendary, canon, priest vicar, vicar choral, minor canon, or fellow, to be absent from any benefice, on account of such residence and per-

Perform-
ance of
cathedral
duties, &c.,
may be ac-
counted as
residence,
under cer-
tain re-
strictions.

formance of duty, for more than five months altogether in any one year, including the time of such residence on his prebend, canonry, vicarage, or fellowship: provided also, that it shall be lawful for any spiritual person having or holding any such office in any cathedral or collegiate church or college, in which the year for the purposes of residence is accounted to commence at any other period than the first of January, and who may keep the periods of residence required for two successive years at such cathedral or collegiate church or college, in whole or in part, between the first of January and the thirty-first of December in any one year, to account such residence, although exceeding five months in the year, as reckoned from the first of January to the thirty-first of December, as if he had resided on some benefice, any thing in this act contained to the contrary notwithstanding.

Existing
rights as
to exemp-
tions and
licences
preserved.

XL. Provided always, that every spiritual person being in possession of any benefice at the time of the passing of this act, and entitled by the law previously in force to exemption from residence, or to apply for a licence for non-residence, shall, as to every such benefice, but not as to any after-taken benefice, be entitled to the same exemption from residence, and to the same capacity of applying for and obtaining a licence for non-residence, and to the same right of appeal, in case of refusal or revocation of a licence, to which he was entitled before the time of the passing of this act; and every bishop and other person empowered before the passing of this act, to grant such licence to such spiritual person, shall have the like power after the passing thereof, any thing hereinbefore contained to the contrary notwithstanding.

If house of
residence
not kept in
repair, the
incumbent
to be liable
to the
penalties
for non-
residence.

XLI. Provided also, and be it enacted, that every spiritual person having any house of residence upon his benefice who shall not reside therein, shall, during such period or periods of non-residence, whether the same shall be for the whole or part of any year, keep such house of residence in good and sufficient repair; and in every such case it shall be lawful for the bishop to cause a survey of such house of residence to be made by some competent person, the costs of which, in case the house shall be found to be out of repair, shall be borne by such spiritual person; and if the surveyor shall

report that such house of residence is out of repair, it shall be lawful for the bishop to issue his monition to the incumbent to put the same in repair, according to such survey and report, a copy of which shall be annexed to the monition; and every such non-resident spiritual person who shall not keep such house of residence in repair, and who shall not, upon such monition, and within one month after service of such monition, show cause to the contrary to the satisfaction of the bishop, or put such house in repair within the space of ten months, to the satisfaction of such bishop, shall be liable to all the penalties for non-residence imposed by this act during the period of such house of residence remaining out of repair, and until the same shall have been put in repair.

XLII. And be it enacted, that every spiritual person, applying for a licence for non-residence, shall present to the bishop a petition signed by himself or by some person approved by the bishop in that behalf, and shall state therein whether such spiritual person intends to perform the duty of his benefice in person, and in that case, where and at what distance from the church or chapel of such benefice he intends to reside; and if he intends to employ a curate, such petition shall state what salary he purposes to give to such curate, and whether the curate proposes to reside, or not to reside in the parish in which such benefice is situate; and if the curate intends to reside therein, then whether in the house of residence belonging to such benefice, or in some and what other house; and if he does not intend to reside in the parish, then such petition shall state at what distance therefrom, and at what place, such curate intends to reside, and whether such curate serves any other and what parish, as incumbent or curate, or has any and what cathedral preferment, and any and what benefice, or officiates in any other and what church or chapel; and such petition shall also state the annual value and the population of the benefice in respect of which any licence for non-residence shall be applied for, and the number of churches or chapels, if more than one, upon such benefice, and the date of the admission of such spiritual person to the said benefice; and it shall not be lawful for the bishop to grant any such licence unless

Every petition for licence for non-residence to be in writing and to state certain particulars.

such petition shall contain a statement of the several particulars aforesaid ; and every such petition shall be filed in the registry of the diocese by the registrar thereof, and shall be open to inspection, and copies thereof made, with the leave in writing of the bishop.

Bishop
may grant
licences
for non-
residence
in certain
enumerated
cases.

XLIII. And be it enacted, that it shall be lawful for the bishop upon such petition being presented to him, and upon such proofs being adduced as to any facts stated in any such petition, as he may think necessary and shall require, to grant, in such cases as are hereinafter enumerated, in which he shall think fit to grant the same, a licence in writing under his hand, for such spiritual person to reside out of the proper house of residence of his benefice, or out of the limits of his benefice, or out of the limits prescribed by this act, for the purpose of exempting such person from any pecuniary penalty in respect of any non-residence thereon ; which licence shall express the cause of granting the same licence, (that is to say,) to any spiritual person who shall be prevented from residing in the proper house of residence, or within the limits of such benefice, or within the limits prescribed by this act, by any incapacity of mind or body ; and also for a period not exceeding six months, to any spiritual person on account of the dangerous illness of his wife or child making part of his family, and residing with him as such ; but that no such licence on account of the illness of a wife or child shall be renewed save with allowance of the archbishop of the province, previously signified under his hand in pursuance of a recommendation in writing from the bishop, setting forth the circumstances, proofs, and reasons which induce him to make such recommendation ; and also to any spiritual person having or holding any benefice wherein there shall be no house of residence, or where the house of residence shall be unfit for the residence of such spiritual person, such unfitness not being occasioned by any negligence, default, or other misconduct of such spiritual person, and such spiritual person keeping such a house of residence, if any, and the buildings belonging thereto, in good and sufficient repair and condition to the satisfaction of the bishop, and a certificate under the hand of two neighbouring incumbents, countersigned by the rural dean, if any, that no

house convenient for the residence of such spiritual person can be obtained within the parish, or within the limits prescribed by this act, being first produced to the bishop; and also to grant to any spiritual person holding any benefice, and occupying in the same parish any mansion or messuage whereof he shall be the owner, a licence to reside in such mansion or messuage, such spiritual person keeping the house of residence and other buildings belonging thereto in good and sufficient repair and condition, and producing to the bishop proof to his satisfaction, at the time of granting every such licence, of such good and sufficient repair and condition: provided always, that any such spiritual person, within one month after refusal of any such licence, may appeal to the archbishop of the province, who shall confirm such refusal, or direct the bishop to grant a licence under this act, as shall seem to the said archbishop just and proper.

XLIV. And be it enacted, that it shall be lawful for any bishop in any case not hereinbefore enumerated, in which such bishop shall think it expedient, to grant to any spiritual person holding any benefice within his diocese, a licence to reside out of the limits of such benefice: provided always, that in every such case, the nature and special circumstances thereof, and the reasons that have induced such bishop to grant such licence, shall be forthwith transmitted to the archbishop of the province, who shall forthwith proceed therein as hereinafter provided in cases of appeal, and shall allow or disallow such licence in the whole or in part, or make any alteration therein, as to the period for which the same may have been granted or otherwise, and no such licence shall be valid unless it shall have been so allowed by such archbishop, such allowance thereof being signified by the signing thereof by such archbishop; provided also, that it shall not be necessary in such licence to specify the cause of granting the same.

XLV. And be it enacted, that during the vacancy of any see, the power of granting licences of non-residence under this act, subject to the regulations herein contained, shall be exercised by the guardian of the spiritualities of the diocese: or in case the bishop of any diocese shall be disabled from

Appeal to
archbishop
in case of
refusal.

In cases
not enu-
merated
bishops
may grant
licences to
reside out
of limits of
benefice,
subject to
allowance
by the
arch-
bishop.

By whom
licences
may be
granted
while a see
is vacant,
&c.

exercising in person the functions of his office, such power shall be exercised by the person or persons lawfully empowered to exercise his general jurisdiction in the diocese; provided always, that no licence granted by any other than the bishop shall be valid, until the archbishop of the province shall have signified his approbation of the grant of such licence by signing the same.

Duration
of licences.

XLVI. And be it enacted, that no licence for non-residence granted under this act or under the said hereinbefore second recited act, shall continue in force after the thirty-first day of December in the year next after the year in which such licence shall have been or shall be granted.

Fee for
licence.

XLVII. And be it enacted, that every person obtaining any licence of non-residence, shall pay for the same to the secretary or officer of the bishop, or other person granting the same, the sum of ten shillings, over and above the stamp duty chargeable thereon, and no more, and also the sum of three shillings, and no more, to the registrar of the diocese, and shall also pay the sum of five shillings to the secretary of the archbishop when any such licence shall have been signed by such archbishop.

Licences
not to be
void by the
death or
removal
of the
grantor.

XLVIII. And be it enacted, that no licence of non-residence shall become void by the death or removal of the bishop granting the same, but the same shall be and remain valid, notwithstanding any such death or removal, unless the same shall be revoked as hereinafter mentioned.

Licences
may be
revoked.

XLIX. And be it enacted, that it shall be lawful for any archbishop or bishop, who shall have granted any licence of non-residence as aforesaid, or for any successor of any such archbishop or bishop, after having given such incumbent sufficient opportunity of showing reason to the contrary, in any case in which there may appear to such archbishop or bishop good cause for revoking the same, by an instrument in writing under his hand, to revoke any such licence: provided always, that any such incumbent may, within one month after service upon him of such revocation, if by a bishop, appeal to the archbishop of the province, who shall confirm or annul such revocation, as to him shall appear just and proper.

Copies of

L. And be it enacted, that every bishop who shall grant

or revoke any licence of non-residence under this act shall, and he is hereby required, within one month after the grant or revocation of such licence, to cause a copy of every such licence or revocation to be filed in the registry of his diocese; and an alphabetical list of such licences and revocations shall be made out by the registrar of such diocese, and entered in a book, and kept for the inspection of all persons, upon payment of three shillings, and no more; and a copy of every such licence, and a statement in writing of the grounds of exemption, shall be transmitted by the spiritual person to whom such licence shall have been granted, or who may be exempted from residence, to the churchwardens or chapelwardens of the parish or place to which the same relates, within one month after the grant of such licence, or of his taking advantage of such exemption, as the case may be, and every bishop revoking any such licence shall cause a copy of such revocation to be transmitted, within one month after the revocation thereof, to the churchwardens or chapelwardens of the parish or place to which it relates; which copies of licences and revocation, and statements of exemption, shall be by such churchwardens or chapelwardens deposited in the parish chest, and shall likewise be produced by them, and publicly read by the registrar or other officer, at the visitation of the ecclesiastical district within which such benefice shall be locally situate next succeeding the receipt thereof; and every spiritual person who shall neglect so to transmit a copy of such licence or statement of exemption, as hereby required, shall lose all benefit of such licence, and until he shall have transmitted such statements, shall not be entitled to the benefit of such exemption: provided always, that in case the archbishop of the province shall, on appeal to him, annul the revocation of any such licence, the bishop by whom such revocation shall have been made shall, immediately on receiving notice from the archbishop that he has annulled the same, order, by writing under his hand, that the copies of such revocation shall be forthwith withdrawn from the said registry and parish chest, and that the same shall not be produced and read at the visitation, and that such revocation shall be erased from the list of revocations in the said registry; which order shall be binding

licences or
revoca-
tions to be
filed in the
registry of
the diocese
and a list
kept for
inspection:
and copies
trans-
mitted to
church-
wardens,
and pub-
licly read
at the first
visitation.

on the registrar and churchwardens respectively to whom the same shall be addressed.

List of licences allowed by the archbishop or granted in his own diocese, to be annually transmitted to her Majesty in council, who may revoke licences, &c.

LI. And be it enacted, that every archbishop who shall in his own diocese grant any licence of non-residence, or who shall approve and allow, in manner directed by this act, any such licence in any case not enumerated in this act, or any renewal of a licence in the case of the dangerous illness of the wife or child of any spiritual person, shall annually in the month of January in each year transmit to her Majesty in council a list of all licences or renewals so granted or allowed by such archbishop respectively in the year ending on the last day of December preceding such month of January, and shall in every such list specify the reasons which have induced him to grant or allow each such licence or renewal, together with the reasons transmitted to him by the bishops for granting or recommending each such licence in their respective dioceses; and it shall be lawful for her Majesty in council, by an order made for that purpose, to revoke and annul any such licence; and if her Majesty in council shall think fit so to do, such order shall be transmitted to the archbishop who shall have granted or approved and allowed such licence or renewal, who shall thereupon cause a copy of every such order to be transmitted to the bishop of the diocese in which such licence shall have been granted; and such bishop shall cause a copy of the mandatory part of the order to be filed in the registry of such diocese, and a like copy to be delivered to the churchwardens or chapelwardens of the parish or place to which the same relates, in manner hereinbefore directed as to revocation of licences; and every such archbishop shall cause a copy of the mandatory part of every such order made in relation to any such licence granted by him in his own diocese to be in like manner filed in the registry of his diocese, and a like copy also to be delivered to the churchwardens or chapelwardens of the parish or place to which such licence shall relate in manner before mentioned: provided always, that after such licence shall have been so revoked by her Majesty in council the same shall nevertheless, in all questions that shall have arisen or may thereafter arise touching the non-residence of the spiritual person to whom the same shall have been granted,

Licence, although revoked, to be deemed valid between the grant and revocation.

between the time at which the same was granted or approved and allowed and the time of the revocation thereof being so filed in the registry, be deemed and taken to have been valid.

LII. And be it enacted, that it shall be lawful for each bishop, and he is hereby required to transmit, some time in the month of January in each year, to every spiritual person holding any benefice within his diocese or jurisdiction, the questions contained in the first schedule to this act, for the purpose of better enabling the several bishops to make the returns hereinafter mentioned; and every spiritual person to whom such questions shall be so transmitted shall, within three weeks from the day on which the same shall be delivered to him, or to the officiating minister of the benefice for the time being, make and transmit to the bishop full and specific answers thereto, such answers being signed by such spiritual person.

Incumbents to answer questions transmitted to them by bishop.

LIII. And be it enacted, that on or before the twenty-fifth day of March in every year a return shall be made to her Majesty in council by every bishop of the name of every benefice within his diocese or jurisdiction, and the names of the several spiritual persons holding the same respectively who shall have resided thereon; and also the names of the several spiritual persons who, by reason of any exemption under or by virtue of this act, or by reason of any licence granted by such bishop, shall not have resided on their respective benefices; and also the names of all spiritual persons, not having any such exemption or licence, who shall not have resided on their respective benefices, so far as the bishop is informed thereof; and also the substance of the answers received in all cases to the questions so transmitted as aforesaid.

Annual return to be made to her Majesty in council of residents and non-residents, &c.

LIV. And be it enacted, that in every case in which it shall appear to the bishop that any spiritual person holding any benefice within his diocese, and not having a licence to reside elsewhere than in the house of residence belonging thereto, nor having any legal cause of exemption from residence, does not sufficiently, according to the true meaning and intent of this act, reside on such benefice, it shall be lawful for such bishop, instead of proceeding for penalties

Residence may be enforced by monition, or the living sequestered.

under this act, or for penalties incurred before the passing of this act, under the act of the fifty-seventh year of his majesty King George the Third, or after proceeding for the same, to issue or cause to be issued a monition to such spiritual person, requiring him forthwith to proceed to and to reside on such benefice, and perform the duties thereof, and to make a return to such monition within a certain number of days after the issuing thereof; provided that in every such case there shall be thirty days between the time of serving such monition on such spiritual person, in the manner hereinafter directed, and the time specified in such monition for the return thereto; and the spiritual person on whom any such monition shall be served shall, within the time specified for that purpose, make a return thereto into the registry of the diocese, to be there filed; and it shall be lawful for the bishop to whom any such return shall be made, to require such return or any fact contained therein to be verified by evidence; and in every case where no such return shall be made, or where such return shall not state such reasons for the non-residence of such spiritual person as shall be deemed satisfactory by the bishop, or where such return, or any of the facts contained therein, shall not be so verified as aforesaid, when such verification shall have been required, it shall be lawful for the bishop to issue an order in writing under his hand and seal, requiring such spiritual person to proceed and reside as aforesaid within thirty days after such order shall have been served upon him, in like manner as is hereinafter directed with respect to the service of monitions; and in case of non-compliance with such order it shall be lawful for the bishop to sequester the profits of such benefice until such order shall be complied with, or such sufficient reasons for non-compliance therewith shall be stated and proved as aforesaid, and to direct, by any order to be made for that purpose under his hand, and filed as aforesaid, the application of such profits, after deducting the necessary expenses of serving the cure, either in the whole or in such proportions as he shall think fit, in the first place to the payment of the penalties proceeded for, if any, and of such reasonable expenses as shall have been incurred in relation to such monition and sequestration, and in the next place

towards the repair or sustentation of the chancel, house of residence of such benefice, or of any of the buildings and appurtenances thereof, and of the glebe and demesne lands, and in the next place, where such benefice shall be likewise under sequestration at the suit of any creditor, then towards the satisfaction of such last mentioned sequestration ; and after the satisfaction thereof, then and in the next place towards the augmentation or improvement of any such benefice, or the house of residence thereof, or any of the buildings and appurtenances thereof, or towards the improvement of any of the glebe or demesne lands thereof, or to order and direct the same or any portion thereof to be paid to the treasurer of the governors of the bounty of Queen Anne, for the purposes of the said bounty as such bishop shall, in his discretion, under all circumstances, think fit and expedient ; and it shall also be lawful for the bishop within six months after such order for sequestration, or within six months after any money shall have been actually levied by such sequestration, to remit to such spiritual person any proportion of such sequestered profits, or to cause the same or any part thereof, whether the same remain in the hands of the sequestrator or shall have been paid to the said treasurer, to be paid to such spiritual person ; and every such sequestrator, at the suit of the bishop, is hereby required, upon receiving an order under the hand of such bishop, forthwith to obey the same ; and the said treasurer is hereby authorized and required, upon receiving a like order from such bishop, to make such payment out of any money in his hands : provided always, that any such spiritual person may, within one month after service upon him of the order for any such sequestration, appeal to the archbishop of the province, who shall make such order relating thereto, or to the profits that shall have been so sequestered as aforesaid, for the return of the same or any part thereof to such spiritual person, or to such sequestrator at the suit of any creditor (as the case may be), or otherwise as may appear to such archbishop to be just and proper ; but nevertheless such sequestration shall be in force during such appeal.

LV. And be it enacted, that every spiritual person to whom any such monition or order in writing shall be issued

Appeal
against
sequestra-
tion to
the arch-
bishop.

Incum-
bents re-
turning to

residence
on moni-
tion to pay
the costs.

as aforesaid, who shall be at the time of the issuing thereof absent from his benefice, contrary to the provisions of this act, but who shall forthwith obey such monition or order, and the profits of whose benefice shall by reason of such obedience not be sequestered, shall nevertheless pay all costs, charges, and expenses incurred by reason of the issuing and serving such monition or order, and that the proceedings thereon shall not be stayed until such payment shall be made.

Incum-
bent re-
turning to
residence
on moni-
tion, but
again ab-
senting
himself
within 12
months,
bishop
may, with-
out further
monition,
sequester.

LVI. And for effectually enforcing *bond fide* residence according to the intent of such monition and order, be it enacted, that if any spiritual person, not having a licence to reside out of the limits of his benefice, nor having other lawful cause of absence from the same, who after any such monition or order as aforesaid requiring him to reside, and before or after any such sequestration as aforesaid, shall in obedience to any such monition or order have begun to reside upon his benefice, shall afterwards, and before the expiration of twelve months next after the commencement of such residence, wilfully absent himself from such benefice for the space of one month together, or to be accounted at several times, it shall be lawful for the bishop, without issuing any other monition, or making any order, to sequester and apply the profits of such benefice as before directed by this act, for the purpose of enforcing the residence of such spiritual person, according to the true intent of the original monition issued by the bishop as aforesaid; and it shall be lawful for the bishop so to proceed in like cases from time to time as often as occasion may require; provided that in each such case such spiritual person may, within one month after the service upon him of the order for any such sequestration, appeal to the archbishop of the province, who shall make such order relating thereto, or to the profits sequestered, or to any part thereof, as to him may seem just and proper, but nevertheless such sequestration shall be in force during such appeal.

Reasons
for re-
mitting
penalties
for non-
residence
of a certain

LVII. And be it enacted, that in every case in which any archbishop or bishop shall think proper, after proceeding by monition for the recovery of any penalty under this act for non-residence of more than one third part of the yearly value of any benefice for any non-residence exceeding six months in

the year, to remit the whole or any part of any such penalty, such archbishop shall forthwith transmit to her Majesty in council, and such bishop shall forthwith transmit to the archbishop of the province to which he belongs, a statement of the nature and special circumstances of each case, and the reasons for the remission of any such penalty; and it shall thereupon be lawful for her Majesty in council, or for the archbishop (as the case may be), to allow or disallow such remission in whole or in part, in the same manner as is provided in this act with relation to the allowance or disallowance of licences of non-residence granted in cases not hereinbefore expressly enumerated: provided always, that the decision of the archbishop with respect to cases transmitted to him from a bishop shall be final.

LVIII. And be it enacted, that if the benefice of any spiritual person shall continue for the space of one whole year under sequestration issued under the provisions of this act for disobedience to the bishop's monition or order requiring such spiritual person to reside on his benefice, or if such spiritual person shall, under the provisions of this act, incur two such sequestrations in the space of two years, and shall not be relieved with respect to either of such sequestrations upon appeal, such benefice shall thereupon become void; and it shall be lawful for the patron of such benefice to make donation or to present or nominate to the same as if such spiritual person were dead; and the bishop, on such benefice so becoming void, shall give notice in writing under his hand to such patron, which notice shall either be delivered to such patron or left at his usual place of abode, or if such patron or place of abode shall be unknown, or shall be out of England, such notice shall be twice inserted in the London Gazette, and also twice in some newspaper printed and usually circulated in London, and in some other newspaper usually circulated in the neighbourhood of the place where such benefice is situate; and for the purposes of lapse, the avoidance of the benefice shall be reckoned from the day on which such notice shall have been delivered as aforesaid, or from the day on which six months shall have expired after the second publication of such notice in the London Gazette (as the case may be); and every such notice in the Gazette

amount to
be trans-
mitted to
the Queen
in council.

Benefice
continuing
so seques-
trated one
year, or
being
twice so
seques-
trated
within two
years, to
become
void.

and newspapers shall state that the patron or the place of abode of the patron is unknown, or that he is said to be out of England (as the case may be), and that the benefice will lapse, at the furthest, after the expiration of one year from the second publication thereof as aforesaid; and upon any such avoidance it shall not be lawful for the patron to appoint by donation, or present or nominate to such benefice so avoided, the person by reason of whose non-residence the same was so avoided.

Contracts for letting houses in which any spiritual persons required by bishop to reside to be void.

LIX. And be it enacted, that any agreement made for the letting of the house of residence, or the buildings, gardens, orchards, or appurtenances necessary for the convenient occupation of the same, belonging to any benefice, to which house of residence any spiritual person may be required, by order of the bishop as aforesaid, to proceed and to reside therein, or which may be assigned or appointed as a residence to any curate by the bishop, shall be made in writing, and shall contain a condition for avoiding the same, upon a copy of such order, assignment or appointment being served upon the occupier thereof, or left at the house, and otherwise shall be null and void; and a copy of every such order, assignment, or appointment shall, immediately on the issuing thereof, be transmitted to one of the churchwardens of the parish, or such other person as the bishop shall think fit, and be by him forthwith served on the occupier of such house of residence, or left at the same; and any person continuing to hold any such house of residence, or any such building, garden, orchard, or appurtenances, after the day on which such spiritual person shall be directed by such order to reside in such house of residence, or which shall be specified in any such order, assignment, or appointment, and after such copy shall be so served or left as aforesaid, shall forfeit the sum of forty shillings for every day he shall without the permission of the bishop in writing under his hand for that purpose obtained, wilfully continue to hold any such house, building, garden, orchard, or appurtenances, together with the expense of serving or leaving such order, assignment, or appointment, to be allowed by the bishop issuing the order or making such assignment or appointment; and it shall also be lawful for the spiritual person so directed

Penalty for holding adverse possession 40s. for every day.

to reside, or the curate to whom any such residence is assigned, to apply to any justice of the peace having jurisdiction in the place, for a warrant for the taking possession thereof; and the justice to whom any such order for such possession is produced shall, and he is hereby required, upon its being duly verified, to grant a warrant to some peace officer to deliver such possession, and possession may thereupon be taken of such house under such warrant at any time in the daytime, by entering the same by force, if necessary, without any other proceeding by ejectment or otherwise, any law or statute to the contrary notwithstanding; provided that any person who shall have been in possession of any such house of residence or premises under a verbal agreement only, or under any agreement in which the condition aforesaid for avoiding the same shall not be inserted, and who shall be turned out of possession, by virtue of this act, shall be entitled to sue the person with whom he or she had entered into such agreement for damages occasioned by his or her being so turned out of possession, to be recovered in any of her Majesty's superior courts at Westminster.

LX. Provided always and be it enacted, that no spiritual person shall be liable to any penalty for not residing in any such house of residence during such time as such tenant shall continue to occupy such house of residence or other building or appurtenances necessary to the occupation of the same.

LXI. And be it enacted, that no oath shall be required of or taken by any vicar in relation to residence on his vicarage; any law, custom, constitution, or usage to the contrary notwithstanding.

LXII. And be it enacted, that upon or at any time after the avoidance of any benefice it shall be lawful for the bishop, and he is hereby required to issue a commission to four beneficed clergymen of his diocese, or if the benefice be within his peculiar jurisdiction, but locally situate in another diocese, then to four beneficed clergymen of such last-mentioned diocese, one of whom shall be the rural dean (if any) of the rural deanery or districts wherein such benefice shall be situate, directing them to inquire whether there is a fit house of residence within such benefice, and what are the annual profits of such benefice, and if the clear annual profits

Incumbent not liable to penalty for non-residence while the tenant occupies. Vicar's oath relating to residence abolished. On avoidance of benefice not having fit house of residence, bishop to raise money to build one by mortgage of glebe, &c., for 35 years.

of such benefice exceed one hundred pounds, whether a fit house of residence can be conveniently provided on the glebe of such benefice, or otherwise; and if the said commissioners, or any three of them, shall report in writing under their hands to the said bishop that there is no fit house of residence within such benefice, and that the clear annual profits of such benefice exceed one hundred pounds, and that a fit house of residence can be conveniently provided on the glebe of such benefice, or on any land which can be conveniently procured for the site of such house of residence, it shall be lawful for the said bishop, and he is hereby required, to procure from some skilful and experienced workman or surveyor, a certificate containing a statement of the condition of the buildings (if any), and of the value of the timber and other materials (if any) thereupon fit to be employed in building or repairing, or to be sold, and also a plan or estimate of the work fit and proper to be done for building or repairing such house of residence, with all necessary and convenient offices, and thereupon, by mortgage of the glebe, tithes, rents, rent-charges, and other profits and emoluments, arising or to arise from such benefice, to levy and raise such sum or sums as the said estimate shall amount to, after deducting the value of any timber or other materials which may be thought proper to be sold, not exceeding four years' net income and produce of such benefice, after deducting all outgoings (except only the salary of the assistant curate where such a curate is necessary), which mortgage shall be made to the person or persons who shall advance the money so to be levied and raised, for the term of thirty-five years, or until the money so to be raised, with interest for the same, and such costs and charges as may attend the recovery thereof, shall be fully paid and satisfied according to the provisions of this act; and the same mortgage shall be made by one or more deed or deeds in the form or to the effect for that purpose contained in the second schedule to this act, and shall bind the incumbent of such benefice for the time being and his successors until the principal and interest, costs and charges, shall be fully paid off and satisfied, and every incumbent for the time being is hereby made liable to the payment of so much of the principal, interest, and costs as under the

directions hereinafter contained shall become payable during the time he shall be such incumbent, and every such incumbent and his representatives shall be and are hereby also made respectively liable to the proportion of the payments for the year which shall be growing at the time of the death of such incumbent, or avoidance of such benefice according to the directions hereinafter contained ; which said principal, interest, and costs, and the proportion of payment growing at the time of the death of such incumbent or of such avoidance, shall and may be recovered by action of debt in any court of record.

LXIII. Provided always, and be it enacted, that the said bishop shall cause to be transmitted to the patron and the incumbent (if any) of such benefice copies of the report so to be made by such commissioners, and of the plan, estimate, and certificate so to be made by such workman or surveyor, two calendar months at the least before making any such mortgage as aforesaid ; and that in case the patron and the incumbent, or either of them, shall object to the proposed site for a residence, or to the proposed plan for erecting or repairing such residence, or to the amount proposed to be raised, and shall deliver such objections in writing to the said bishop before the expiration of such period of two calendar months, the said bishop shall have full power to direct that the plan proposed to be carried into effect shall be altered or modified in such manner as he may think fit : provided also, that if the bishop shall, after receiving the report to be made by such commissioners, be of opinion that it is not expedient under the special circumstances of any such benefice, to levy and raise any sum or sums of money by mortgage as herein before required, or otherwise to take measures for providing a fit house of residence for such benefice, he shall state in detail such special circumstances, and the grounds of his opinion, in the next annual return to be made by him to her Majesty in council, according to the directions hereinbefore contained.

LXIV. And be it enacted, that every such mortgagee shall execute a counterpart of every such mortgage, to be kept by the incumbent for the time being ; and a copy of every such deed of mortgage shall be registered in the office

Bishop to transmit copies of report, &c., to patron and incumbent, who may object within two months ; and if so, bishop may order plan to be modified or abandoned

Every mortgagee to execute a counterpart of the mortgage,

to be kept by the incumbent, &c. of the registrar of the bishop of the diocese, after having been first examined by him with the original, which officer shall register the same, and be entitled to demand and receive the sum of five shillings, and no more, for such register ; and every such deed shall be referred to upon all necessary occasions, the person inspecting the same paying one shilling for every such search ; and the said deed, or a copy thereof certified under the hand of the registrar, shall be allowed as legal evidence, in case any such mortgage-deed shall happen to be lost or destroyed.

On failure of payment of principal and interest for 40 days after due, mortgagee may dis-train. LXV. And be it enacted, that whenever the principal and interest directed to be paid to the mortgagee under the provisions of this act shall be in arrear and unpaid for the space of forty days after the same shall become due, it shall be lawful for such mortgagee, his executors, administrators, or assigns, to recover the same, and the costs and charges attending the recovery thereof, by distress and sale in such manner as rents may be recovered by landlords or lessors from their tenants by the laws in being.

Money borrowed to be paid to such persons as the bishop shall appoint ; LXVI. And be it enacted, that the money so to be raised shall be paid into the hands of such person or persons as shall be nominated and appointed by the bishop of the diocese by writing under his hand to receive and apply the same for the purposes aforesaid, in the form for that purpose contained in the said schedule, after such nominee shall have given a bond to the ordinary, with sufficient surety, in double the sum so to be borrowed or raised, with condition for his duly applying and accounting for the same according to the directions of this act ; and the receipt of the person or persons so to be nominated shall be a sufficient discharge to the person or persons who shall advance and pay the money ; and the person or persons so to be nominated shall enter into contracts with proper persons for such buildings or repairs as shall be approved by the said bishop, and shall be specified in an instrument written upon parchment and signed by him, and shall inspect and have the care of the execution of such contracts, and shall pay the money for such buildings and repairs, according to the terms of such agreements, and also the expenses of preparing the mortgage-deed and incident thereto, and of making such certificate, plan, and estimate,

who shall contract for the buildings, &c., and see the same executed, and pay for them, &c.

and copies thereof as aforesaid, and shall take proper receipts and vouchers for the same; and as soon as such buildings or repairs shall be completed, and the money paid, shall make out an account of his receipts and payments, together with the vouchers for the same, and enter them in a book fairly written, which shall be signed by him, and laid before the bishop of the diocese, and examined by him, and when allowed by writing under his hand, such allowance shall be a full discharge to the person so nominated in respect to the said accounts; and if any balance shall remain in the hands of such nominee or nominees, the same shall be laid out in some further lasting improvements in building upon such glebe, or shall be paid and applied in discharge of so much of the said principal debt as such balance will extend to pay, at the discretion of the said bishop, by order signed by him; and an account shall also be kept, made out, and allowed of such further disbursements in manner aforesaid; all which accounts, when made out, completed, and allowed, shall be deposited with the vouchers in the hands of the said registrar, and kept by him for the use and benefit of the incumbents of such benefice for the time being, who shall have a right to inspect the same whenever occasion shall require, paying to such registrar or deputy registrar the sum of one shilling for every such inspection.

How the balance remaining shall be disposed of.

LXVII. And be it enacted, that the incumbent of every such benefice, in cases where such mortgage or mortgages shall be made as aforesaid, and his successors for the time being, shall, from and after the expiration of the first year of the said term (in which year no part of the principal sum borrowed shall be repayable), yearly and every year (such year to be computed from the date of such mortgage) pay to the mortgagee one thirtieth part of the principal sum until the whole thereof shall be repaid, and shall at the end of the first and each succeeding year pay the yearly interest on the principal sum, or so much thereof as shall from time to time remain unpaid; and that every such incumbent shall annually at his own expense, from the time such buildings authorized to be made by this act shall be completed, insure, at one of the public offices established in London or Westminster for insurance of houses and buildings; the house and other build-

Directions for payment of principal and interest of the mortgages.

As soon as the buildings are completed, incumbent to insure them

against
fire.

ings upon such glebe against accidents by fire, at such sum of money as shall be determined upon by the bishop; and in default of the payment of either the principal or interest in manner aforesaid, or neglect of the incumbent to make such insurance, the bishop shall have power to sequester the profits of the benefice till such payment or insurance shall be made.

For pro-
portioning
the annual
payment,
in case of
death or
other
avoidance.

LXVIII. And be it enacted, that the sum payable at the end of any year in which there shall be an avoidance of such benefice, shall be apportioned between the successor and the incumbent avoiding such benefice by death or otherwise, or his representatives, in such proportions as the profits of such living shall have been received by them respectively for the year in which such death or avoidance shall happen; and that in case any difference shall arise in adjusting or settling the proportions aforesaid, the same shall be determined by two indifferent persons, the one to be named by the said successor and the other by the person making such avoidance, or his representatives in case of his death; and in case such nominees shall not be appointed within the space of two calendar months next after such death or avoidance, or if they cannot agree in adjusting such proportions within the space of one calendar month after they shall have been appointed, the same shall be determined by some neighbouring clergyman, to be nominated by the bishop, whose determination shall be final and conclusive between the parties.

All money
received
for dilapi-
dations,
&c, shall
be applied
in part of
the pay-
ments
under the
aforesaid
estimate;

LXIX. And be it enacted, that all sums of money recovered or received, by suit or compositions, from the representatives of any former incumbent of such benefice, and not laid out in the repairs of such buildings, shall go and be applied in part of the payments under such estimate as aforesaid; and that all money thereafter to be recovered or received, in case the same cannot be had before such buildings are completed, and the money paid for the same, shall be applied as soon as received in payment of the principal then due, as far as the same will extend; or in case the said mortgage-money shall have been discharged, all such money arising from dilapidations shall be paid into the hands of the nominee to be appointed as aforesaid, or of some other person or persons to be nominated by the bishop, in case such

nominee shall be dead or shall decline to act therein, to be laid out and expended in making some additional buildings or improvements upon the glebe of such benefice, to be approved by the bishop; and in the mean time, or in case such buildings shall not be necessary, then in trust to lay out the same in government or other good securities, and pay the interest thereof to the incumbent for time being.

LXX. And be it further enacted, that where new buildings are necessary to be provided for the residence of the incumbent of any benefice exceeding in value one hundred pounds a year, and avoided after the passing of this act, and where such new buildings cannot be conveniently erected on the glebe of such benefice, it shall be lawful for the bishop to contract, or to authorize, if he shall think fit, the person so to be nominated by him as aforesaid to contract, for the absolute purchase of any house or buildings in a situation convenient for the residence of the incumbent of such benefice, and also to contract for any land adjoining or lying convenient to such house or building, or to contract for any land upon which a fit house of residence can be conveniently built, and to raise the purchase-money for such house or buildings and land adjoining, or for such land upon which a house of residence can be conveniently built (as the case may be), by mortgage of the glebe, tithes, rents, and other profits and emoluments arising or to arise from such benefice, in the same manner in all respects as is hereinbefore directed with respect to the mortgage hereinbefore authorized or directed to be made, which mortgage shall be binding upon the incumbent and his successors, and he and they and their representatives are hereby made liable to the payment of the principal, interest, and costs, in the same manner and to the same extent as hereinbefore directed with respect to the aforesaid mortgage; and the receipt of such nominee or nominees as aforesaid shall be a sufficient discharge to the person or persons who shall advance or pay the money so to be raised: provided always, that no greater sum shall be charged on any benefice under the authority of this act than four years' net income and produce of such benefice (after such deduction as aforesaid).

LXXI. And be it enacted, that the buildings and lands so Buildings

or in making some additional improvements, &c.

Where new buildings are necessary for the residence of the incumbent, the bishop may purchase any conveniently situated house, and a certain portion of land.

and lands to be conveyed to patron in trust for the incumbent for the time being.

to be purchased shall be conveyed to the patron of such benefice and his heirs or successors (as the case may be), in trust for the sole use and benefit of the incumbent of such benefice for the time being and his successors, and shall be annexed to such benefice, and be enjoyed and go in succession with the same for ever ; but no contract of purchase made by the nominee shall be valid until confirmed by the bishop by writing under his hand ; and every such purchase-deed shall be in the form or to the effect contained in the schedule hereunto annexed, and shall be registered in such manner and in such office as the other deeds are hereby directed to be registered.

Governors of Queen Anne's bountyem. powered to lend certain sums to promote the execution of this act.

LXII. And be it enacted, that it shall be lawful for the governors authorized or appointed to regulate and superintend the bounty given by her late Majesty Queen Anne for the augmentation of the maintenance of the poor clergy, to advance and lend out of the money which has arisen or shall from time to time arise from that bounty, for promoting and assisting the purposes of this act, any sum not exceeding the amount hereby authorized to be raised upon such mortgage and security as aforesaid, and subject to the several regulations of this act, and to receive interest for the same not exceeding four pounds for one hundred pounds by the year.

Colleges in Oxford and Cambridge and other corporate bodies, patrons of livings, may lend any sums without interest to aid the execution of this act.

LXIII. And be it enacted, that it shall be lawful for any college or hall within the universities of Oxford and Cambridge, or for any other corporate bodies possessed of the patronage of ecclesiastical benefices, to advance and lend any sum or sums of money of which they have the power of disposing, in order to aid and assist the several purposes of this act for the building, rebuilding, repairing, or purchasing of any houses or buildings for the habitation and convenience of the clergy, upon benefices under the patronage of such college or hall, upon the mortgage and security directed by this act for the repayment of the principal, without taking any interest for the same.

Allowance to persons nominated by the bishop to pay and apply money.

LXXIV. And be it enacted, that it shall be lawful for the said bishop, by writing under his hand, to make such allowance to the person or persons to be nominated by him for the purpose of paying and applying the money so to be raised as aforesaid as he shall think fit, not exceeding the

sum of five pounds for every one hundred pounds so to be laid out and expended as aforesaid.

LXXV. And be it enacted, that if any spiritual person holding any benefice, who shall not actually reside thereon nine months in each year, (unless such person shall, with the consent of the bishop, from time to time, signified in writing under his hand, and revocable at any time, perform the ecclesiastical duties of the same, he either being resident on another benefice, of which he shall also be the incumbent, or having a legal exemption from residence on his benefice, or having a licence to reside out of the same, or to reside out of the usual house of residence belonging to the same,) shall for a period exceeding three months altogether, or to be accounted at several times, in the course of any one year, absent himself from his benefice, without leaving a curate or curates duly licensed or approved by the bishop to perform such ecclesiastical duties, or shall, for a period of one month after the death, resignation, or removal of any curate who shall have served his church or chapel, neglect to notify such death, resignation, or removal to the bishop, or shall for the period of four months after the death, resignation, or removal of such curate, neglect to nominate to the bishop a proper curate, in every such case the bishop is hereby authorized to appoint and license a proper curate, with such salary as is by this act allowed and directed, to serve the church or chapel of the benefice in respect of which such neglect or default shall have occurred: provided always, that such licence shall in every case specify whether the curate is required to reside within the parish or place, or not; and if the curate is permitted by the bishop to reside out of the parish or place, the grounds upon which the curate is so permitted to reside out of the same shall be specified in such licence; and the distance of the residence of any curate from any such church or chapel which he shall be licensed to serve shall not exceed three statute miles, except in cases of necessity, to be approved by the bishop, and specified in the licence.

LXXVI. And be it enacted, that in every case where a curate is appointed to serve in any benefice upon which the incumbent either does not reside or has not satisfied the

Non-resident incumbents neglecting to appoint curates, the bishop to appoint.

urate to reside on benefices, under

certain
circum-
stances.

bishop of his full purpose to reside during four months in the year, such curate shall be required by the bishop to reside within the parish or place in which such benefice is situate, or if no convenient residence can be procured within such parish or place, then within three statute miles of the church or chapel of the benefice in which he shall be licensed to serve, except in cases of necessity, to be approved of by the bishop, and specified in the licence; and such place of residence shall also be specified in the licence.

If duty in-
adequately
performed,
the bishop
may
appoint a
curate;

LXXXVII. And be it enacted, that whenever the bishop shall see reason to believe that the ecclesiastical duties of any benefice are inadequately performed, it shall be lawful for him to issue a commission to four beneficed clergymen of his diocese, or if the benefice be within his peculiar jurisdiction, but locally situate in another diocese, then to four beneficed clergymen of such last-mentioned diocese, one whereof shall be the rural dean, if any, of the rural deanery or district wherein such benefice is situated, directing them to inquire into the facts of the case; and it shall be lawful for the incumbent of the said benefice to add to such commissioners one other incumbent of a benefice within the same diocese; and if the said commissioners, or the major part of them, report, in writing under their hands, to the said bishop that in their opinion the duties of such benefice are inadequately performed, it shall be lawful for such bishop, if he shall see fit, by writing under his hand, to require the spiritual person holding such benefice, though he may actually reside or be engaged in performing the duties thereof, to nominate to him a fit person or persons, with sufficient stipend or stipends, to be licensed by him to perform or to assist in performing such duties, specifying therein the grounds of such requisition; and if such spiritual person shall neglect or omit to make such nomination for the space of three months after such requisition so made as aforesaid, it shall be lawful for the bishop to appoint and license a curate or curates, as the case shall appear to him to require, with such stipend or stipends as he shall think fit to appoint, not exceeding the respective stipends allowed to curates by this act in the case of non-resident incumbents; nor, except in the case of negligence, exceeding one half of

the net annual value of such benefice ; and such bishop shall cause a copy of every such requisition, and the evidence to found the same, to be forthwith filed in the registry of his court : provided always, that it shall be lawful for any such spiritual person, within one month after the service upon him of such requisition to nominate a curate, or of notice of any such appointment and licence of such curate or curates, to appeal to the archbishop of the province, who shall approve or revoke such requisition, or confirm or annul such appointment, as to him may seem just and proper.

but incumbent may appeal.

LXXVIII. And be it enacted, that whenever the annual value of any benefice, the incumbent whereof was not in possession at the time of the passing of this act, shall exceed five hundred pounds, and the population thereof shall amount to three thousand persons, or though the population do not amount to three thousand persons, if there be in the said benefice a second church or chapel, situated not less than two miles from the mother church, and with a hamlet or district connected with it containing four hundred persons, it shall be lawful for the bishop, if he shall see fit, to require the spiritual person holding such benefice, although he shall be resident thereon or engaged in performing the duties thereof, to nominate a fit and proper person to be licensed as a curate to assist in performing the duties of such benefice, and to be paid by the person holding the same ; and if a fit person shall not be nominated to the bishop within three months after his requisition for that purpose shall have been delivered to the incumbent, or left at his last or usual place of abode, it shall be lawful for the bishop to appoint and license a curate, with such stipend as he shall think fit to appoint, not exceeding the respective stipends allowed to curates by this act, nor in any case exceeding one fifth part of the net annual value of the benefice : provided always, that such spiritual person may, within one month after service upon him of such requisition to nominate a curate, or of notice of any such appointment of a curate, appeal to the archbishop of the province, who shall approve or revoke such requisition, or confirm or annul such appointment, as to him may appear just and proper.

In large benefices an assistant curate may be required.

Appeal.

LXXIX. And be it enacted, that in case of a stipend Stipend to

being assigned by the bishop, according to the provisions of this act, to the curate of any benefice, the incumbent whereof shall have been duly found a lunatic or person of unsound mind, the committee of the estate of any such lunatic, or person of unsound mind, shall pay such stipend to such curate out of the profits of the benefice, which shall come to his hands.

Bishops may enforce two services on Sundays, in certain cases.

LXXX. And be it enacted, that it shall be lawful for the bishop, in his discretion, to order that there shall be two full services, each of such services, if the bishop shall so direct, to include a sermon or lecture on every Sunday throughout the year, or any part thereof, in the church or chapel of every or any benefice within his diocese, whatever may be the annual value or the population thereof; and also in the church or chapel of every parish or chapelry, where a benefice is composed of two or more parishes, or chapelries, in which there shall be a church or chapel, if the annual value of the benefice arising from that parish or chapelry shall amount to one hundred and fifty pounds, and the population of that parish or chapelry shall amount to four hundred persons: provided always, that nothing herein contained shall be taken to repeal or affect the provisions of an act passed in the fifty-eighth year of the reign of his Majesty King George the Third, intituled, "An act for building, and promoting the building, of additional churches in populous parishes," by which the bishop of any diocese is empowered to direct the performance of a third or additional service in the several churches or chapels within his diocese, under the circumstances therein mentioned.

Not to affect the provisions of the act 58 Geo. 3, c. 45, s. 65.

Statement of particulars necessary to be given, and declaration to be made, on application for a licence for a curate.

LXXXI. And be it enacted, that every bishop to whom any application shall be made for any licence for a curate to serve for any person not duly residing upon his benefice shall, before he shall grant such licence, require a statement of all the particulars by this act required to be stated by any person applying for a licence for non-residence; and in every case in which application shall be made to any bishop for a licence for any stipendiary curate to serve in any benefice, whether the incumbent be resident or non-resident, such bishop shall also require a declaration in writing to be made and subscribed by the incumbent and the curate, to the purport and

effect that the one *bonâ fide* intends to pay, and the other *bonâ fide* intends to receive, the whole actual stipend mentioned in such statement, without any abatement in respect of rent or consideration for the use of the glebe-house, and without any other deduction or reservation whatever.

LXXXII. And be it enacted, that every curate obtaining such licence as aforesaid shall pay to the secretary, or other proper officer of the bishop for the same, the sum of ten shillings, over and above any stamp duty which may be chargeable thereon; which sum of ten shillings, shall be in lieu of all fees heretofore demandable by such secretary or officer for such licence, or for any certificate connected therewith; and that whenever any person shall be licensed to two curacies within the same diocese at the same time, it shall be sufficient for such person to sign a declaration appointed to be signed by an act, intituled, "An act of uniformity," once only; and it shall be sufficient for such person to produce one certificate only of his having so signed such declaration.

LXXXIII. And be it enacted, that it shall be lawful for the bishop of the diocese, and he is hereby required, subject to the several provisions and restrictions in this act contained, to appoint to every curate of a non-resident incumbent such stipend as is specified in this act; and every licence to be granted to a stipendiary curate, whether the incumbent of the benefice be resident or non-resident thereon, shall specify the amount of the stipend to be paid to the curate; and in case any difference shall arise between the incumbent of any benefice and his curate touching such stipend, or the payment thereof, or of the arrears thereof, the bishop, on complaint to him made, may and shall summarily hear and determine the same, without appeal; and in case of wilful neglect or refusal to pay such stipend, or the arrears thereof, he is hereby empowered to enforce payment of such stipend, or the arrears thereof, by monition, and by sequestration of the profits of such benefice.

LXXXIV. And be it enacted, that it shall not be lawful for the bishop to appoint for the curate of any benefice, to which the spiritual person holding the same was instituted, licensed, or otherwise admitted before the twentieth day of July, 1813,

Fee for
licence.

Bishop
shall
appoint
stipends
to curates;

and decide
differences
respecting
them.

Stipends
to curates
of incum-
bents be-
fore 20th
July, 1813,

not to
exceed a
certain
rate.

July, one thousand eight hundred and thirteen, any stipend exceeding seventy-five pounds per annum, together with the use of the house of residence, and the gardens and stables belonging thereto, or a further sum of fifteen pounds in lieu of the use of the rectory or vicarage-house, or other house of residence, in case there shall be no house, or it shall not appear to the bishop convenient to assign the house to the curate.

Stipends
to curates
to be ac-
cording to
specified
scale, pro-
portioned
to the
value and
population
of the
benefice.

LXXXV. And be it enacted, that in every case in which any spiritual person shall have been, since the twentieth day of July one thousand eight hundred and thirteen, or shall hereafter be instituted, inducted, nominated, or appointed to, or otherwise become incumbent of any benefice, and shall not duly reside thereon, the bishop shall appoint for the curate licensed under the provisions of this act to serve such benefice, such stipend as is hereinafter next mentioned; (that is to say,) such stipend shall in no case be less than eighty pounds per annum, or than the annual value of the benefice, if such value shall not amount to eighty pounds; nor less than one hundred pounds per annum, or than the whole value, if such value shall not amount to one hundred pounds, in any parish or place where the population shall amount to three hundred persons; nor less than one hundred and twenty pounds per annum, or than the whole value, if such value shall not amount to one hundred and twenty pounds, in any parish or place where the population shall amount to five hundred persons; nor less than one hundred and thirty-five pounds per annum, or than the whole value, if such value shall not amount to one hundred and thirty-five pounds, in any parish or place where the population shall amount to seven hundred and fifty persons; nor less than one hundred and fifty pounds per annum, or than the whole value, if such value shall not amount to one hundred and fifty pounds, in any parish or place where the population shall amount to one thousand persons.

Larger
stipends in
certain
cases of
larger
value and
population.

LXXXVI. And be it enacted, that where the annual value of any such benefice shall exceed four hundred pounds, it shall be lawful for the bishop to assign to the curate, being resident within the same, and serving no other cure, a stipend of one hundred pounds, notwithstanding the popula-

tion may not amount to three hundred persons; and that where the annual value of any such benefice shall exceed four hundred pounds, and the population shall amount to five hundred persons, it shall be lawful for the bishop to assign to the curate, being resident within the same, and serving no other cure, any larger stipend, so that the same shall not exceed by more than fifty pounds per annum the amount of the stipend hereinbefore required to be assigned to any such curate; and that where the population of any such benefice shall exceed two thousand persons, it shall be lawful for the bishop to require the incumbent thereof to nominate to him two persons to be licensed as curates; and if such spiritual person shall neglect or omit to make such nomination for the space of three months after such requisition so made as aforesaid, it shall be lawful for the bishop to appoint and license two curates, or a second curate; and in all and every of such cases to assign to each curate so nominated or appointed such stipend as he shall think fit, not exceeding together the highest rate of stipend allowed by this act in the case of one such curate, except in cases where the incumbent shall consent to a larger stipend: provided **Appeal.** always, that such incumbent may, within one month after service upon him of such requisition, or of notice of any such appointment of two curates, or a second curate, appeal to the archbishop of the province, who shall approve or revoke such requisition, or confirm or annul such appointment, as to him may appear just and proper.

LXXXVII. And be it enacted, that in every case in which the bishop shall be satisfied that any spiritual person holding any benefice within his diocese is non-resident, or has become incapable of performing the duties thereof from age, sickness, or other unavoidable cause, and that, from these, or from any other special and peculiar circumstances, great hardship or inconvenience would arise if the full stipend specified in this act should be allowed to the curate of such benefice, it shall be lawful for such bishop, with the consent of the archbishop of the province, to be signified in writing under the hand of the said archbishop upon the licence to be granted to such curate, to assign to the curate such stipend, less than the full amount in this act specified, as shall appear

Bishop
may re-
quire two
curates.

Smaller
stipends
in certain
cases.

to him just and reasonable : provided always, that in the licence granted in every such case, it shall be stated, that for special reasons the bishop hath not thought proper to assign to the curate the full stipend required by this act : provided also, that such special reasons shall be entered fully in a separate book to be kept for that purpose, and to be deposited in the registry of the diocese ; which book shall be open to inspection with the leave of the bishop, as in the cases of application for licences for non-residence.

Stipend of curate engaged to serve interchangeably at different benefices belonging to the same incumbent.

LXXXVIII. And be it enacted, that if any incumbent of two benefices, residing *bond fide* in different proportions of every year on one or other of such benefices the full period specified by this act, shall employ a curate to perform ecclesiastical duty interchangeably from time to time upon such of the benefices from which he shall be absent during his own actual residence upon the other thereof, it shall be lawful for the bishop to assign to such curate any stipend not exceeding such stipend as would be allowed under this act for the larger of such benefices, nor less than would be allowed for the smaller, as to the bishop shall, under all the circumstances, appear just and reasonable : provided always, that if any such incumbent shall employ a curate or curates for the whole year upon each of such benefices, such incumbent so residing *bond fide* as aforesaid, in such case it shall be lawful for the bishop to assign to either or each of such curates any such stipend less than the amount specified in this act, as he shall think fit.

How the stipends shall be adjusted where the curate is permitted to serve in two adjoining parishes.

LXXXIX. And be it enacted, that in every case where the bishop shall find it necessary or expedient, for obtaining the proper performance of ecclesiastical duties, to license any spiritual person, holding any benefice, to serve as curate of any adjoining or other parish or place, it shall be lawful for such bishop, if he shall think fit, to assign to such person so licensed a stipend less by a sum not exceeding thirty pounds per annum than the stipend which in the several cases in this act specified the bishop is required to assign ; and in every case where the bishop shall find it necessary or expedient to license the same person to serve as curate for two parishes or places, it shall be lawful for such bishop, if he shall think fit, to direct that during such time as such curate

shall serve the churches or chapels of such two parishes or places, the stipend to be received by him for serving each of the said churches or chapels shall be less by a sum not exceeding thirty pounds per annum than the stipend which in the several cases hereinbefore specified the bishop is required by this act to assign.

XC. And be it enacted, that all agreements made or to be made between persons holding benefices, and their curates, in fraud or derogation of the provisions of this act, and all agreements whereby any curate shall undertake or in any manner bind himself to accept or be content with any stipend less than that which shall be assigned by his licence, shall be void to all intents and purposes, and shall not be pleaded or given in evidence in any court of law or equity; and notwithstanding the payment and acceptance, in pursuance of any such agreement, of any sum less than that assigned by the licence, or any receipt, discharge, or acquittance that may be given for the same, the curate and his personal representative shall be and remain entitled to the full amount of the stipend assigned by his licence; and the payment of so much thereof as shall be proved to the satisfaction of the bishop to remain unpaid shall, together with full costs of recovering the same as between proctor and client, be enforced by monition, and by sequestration of the profits of the benefice, to be issued by the bishop for that purpose on application made by the curate or his representatives; provided that such application shall in every such case be made to the bishop within twelve months after such curate shall have quitted his curacy, or have died.

Agreements for stipends to curates contrary to this act void.

XCI. And be it enacted, that in every case in which the bishop shall assign to any curate a stipend equal to the whole annual value of the benefice in which he is licensed to serve, such stipend shall be subject to deduction in respect to all such charges and outgoings as may legally affect the value of such benefice, and to any loss or diminution which may lessen such value, without the wilful default or neglect of the spiritual person holding the benefice.

Curate's stipend, if of the value of the benefice, liable to all charges.

XCII. And be it enacted, that in every such case as last aforesaid it shall be lawful for the bishop, upon the application of the spiritual person holding the benefice, to allow

Bishop may allow incumbent to deduct

from curate's stipend for repairs to a limited amount in certain cases.

such spiritual person to retain in each year so much money, not exceeding in any case one fourth part of the annual value, as shall have been actually expended during the year in the repair of the chancel and of the house of residence and premises and appurtenances thereto belonging, in respect of which such spiritual person, or his executors or administrators, would be liable for dilapidations to the successor; and it shall also be lawful for the bishop, in like manner, to allow any spiritual person holding any benefice, the annual value whereof shall not exceed one hundred and fifty pounds, to deduct from the stipend assigned to the curate, in each year, so much money as shall have been actually expended in such repairs, above the amount of the surplus remaining of such value after payment of such stipend; provided that the sum so deducted, after laying out such surplus, shall not in any year exceed one fourth part of such stipend.

Curate directed to reside in parsonage-house, in case of non-residence of incumbent, may have certain portion of glebe assigned to him by bishop.

XCIII. And be it enacted, that it shall be lawful for the bishop who shall have granted any licence to any curate to serve in any benefice, the incumbent whereof is not resident for four months in each year, and who shall have required such curate to reside in the house of residence belonging to the benefice, to assign to such curate such house of residence, together with the offices, stables, gardens, and appurtenances thereto belonging, or any part or parts thereof, without payment of any rent, and also to assign any portion of glebeland adjacent to the house, and not exceeding four statute acres, at such rent as shall be fixed by the archdeacon of the archdeaconry, or by the rural dean, if any, of the deanery or district within which the benefice is situate, and one neighbouring incumbent, and approved of by the bishop, during the time of such curate's serving the cure, or during the non-residence of the incumbent of such benefice; and it shall be lawful for the bishop making any such assignment to any curate, to sequester the profits of the benefice in any case in which possession of the premises so assigned shall not be given up to the curate, and until such possession shall be given, and to direct the application of the profits arising from such sequestration as is hereinbefore directed in the case of sequestration for non-residence, or to remit the same, or any part thereof, as the bishop shall in his discretion think fit.

XCIV. And be it enacted, that in every case where the Curates to pay taxes of parsonage-houses, in certain cases.
 bishop shall assign to the curate licensed to serve in any benefice a stipend not less than the whole value of the same, and shall, in addition to such stipend, direct that such curate shall reside in the house of residence belonging to such benefice, such curate shall be liable during the time of his serving such cure to the same taxes and parochial rates and assessments, in respect of such house, premises, and appurtenances thereto belonging, as if he had been incumbent of the benefice : provided always, that in every other case in which the curate shall so reside by direction of the bishop it shall be lawful for such bishop, if he shall think fit, to order that the incumbent shall pay to the curate all or any part of such sums as he may have been required to pay, and shall have actually paid, within one year, ending at Michaelmas-day next preceding the date of such order for any such taxes, parochial rates, or assessments as shall become due at any time after the passing of this act ; and the bishop may, if necessary, enforce payment thereof by monition, and sequestration of the profits of such benefice.

XCv. And be it enacted, that every curate shall quit and Curate to give up the cure of any benefice which shall become vacant upon having six weeks' notice from the spiritual person admitted, collated, instituted, or licensed to such benefice ; provided such notice shall be given within six months from the time of such admission, collation, institution, or licence ; and that in all other cases it shall be lawful for the incumbent of any benefice, whether resident or non-resident thereon, having first obtained the permission of the bishop of the diocese, to be signified by writing under his hand, to require any one or more of his curates, who after the passing of this act shall be licensed to any curacy, to quit and give up his curacy, upon six months' notice thereof given to the curate, who shall thereupon quit the same according to such notice : provided always, that any incumbent resident on his benefice, or not resident but desiring to reside on his benefice, may, within one month after refusal of such permission as aforesaid by the bishop, appeal to the archbishop of the province, who shall either confirm such refusal or grant such permission as Appeal. to him may seem just and proper.

Curate peaceably to deliver up possession of house of residence within six months after notice, or pay 40s. per day.

XCVI. And be it enacted, that every curate who shall reside in the house of residence of any benefice which shall become vacant, shall peaceably deliver up possession thereof, with the appurtenances, upon having six weeks' notice from the spiritual person admitted, collated, instituted, or licensed to such benefice; provided such notice be given within six months from the time of such admission, collation, institution, or license; and that in all other cases it shall be lawful for the incumbent of any benefice, with the permission signified in writing under the hand of the bishop of the diocese, or for such bishop, at any time, upon six months' notice in writing, to direct any curate to deliver up the house of residence, and the offices, stables, gardens, and appurtenances thereto belonging, and such portion of the glebe land as shall have been assigned to such curate; and such curate shall thereupon peaceably deliver up the possession of the premises pursuant to such notice: and if any curate shall refuse to deliver up such premises in any or either of the cases aforesaid, he shall pay to the spiritual person holding the benefice the sum of forty shillings for every day of wrongful possession after the service of such notice.

Curate not to quit curacy without three months' notice to incumbent and bishop under a penalty.

XCVII. And be it enacted, that no curate shall quit any curacy to which he shall be licensed until after three months' notice of his intention given to the incumbent of the benefice and to the bishop, unless with the consent of the bishop, to be signified in writing under his hand, upon pain of paying to the incumbent a sum not exceeding the amount of his stipend for six months, at the discretion of the bishop, such sum to be specified in writing under the hand of the bishop; which sum may in such case be retained out of the stipend if the same or any part thereof shall remain unpaid, or, if the same cannot be retained out of the stipend, may be recovered by the spiritual person holding the benefice by action of debt.

Bishop may license curates employed without nomination, revoke any

XCVIII. And be it enacted, that it shall be lawful for the bishop to license any curate who is or shall be actually employed by any non-resident incumbent of any benefice within his diocese, although no express nomination of such curate shall have been made to such bishop by the incumbent; and that the bishop shall have power, after having given to the

curate sufficient opportunity of showing reason to the contrary, to revoke, summarily and without further process, any licence granted to any curate, and to remove such curate, for any cause which shall appear to such bishop to be good and reasonable: provided always, that any such curate may, within one month after service upon him of such revocation, appeal to the archbishop of the province, who shall confirm or annul such revocation as to him shall appear just and proper.

XCIX. And be it enacted, that in every case in which a Bishop benefice shall be under sequestration, except for the purpose of providing a house of residence as aforesaid, it shall be lawful to the bishop, and he is hereby required, if the incumbent shall not perform the duties of the said benefice, to appoint and license a curate or curates thereto, and to assign to him or them a stipend or stipends, not exceeding, in the case of any one such curate, the highest rate of stipend allowed by this act, nor where more than one curate is appointed, a stipend exceeding one hundred pounds to more than one such curate; such stipend or stipends to be paid by the sequestrator of such benefice out of the profits thereof: provided always, that not more than one curate shall be appointed to any such benefice in any case in which there is not more than one church, or the population does not exceed two thousand persons.

C. And be it enacted, that upon the avoidance of any benefice, by death, resignation, or otherwise, the sequestrator appointed by the bishop shall, out of the profits thereof which shall come to his hands, pay to the curate or curates appointed by such bishop to perform the ecclesiastical duties of such benefice during the vacancy thereof, such stipend or stipends as shall be ordered to be paid to him or them by such bishop, not exceeding the respective stipends allowed by this act, and in proportion only to the time of such vacancy.

CL. Provided always, and be it enacted, that if the profits of such benefice which shall have come to the hands of such sequestrator during the vacancy thereof shall not be sufficient to pay such stipend, the same, or so much thereof as shall remain unpaid, shall be paid to such curate by the succeeding

licence,
and re-
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curate,
subject to
appeal to
the arch-
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may
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Stipend of
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Proviso for
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during sequestration insufficient. incumbent of such benefice out of the profits thereof; and such bishop is hereby empowered and required, if necessary, to enforce payment of the same by monition, and by sequestration of the profits of such benefice.

Licences to curates, and revocations thereof, to be entered in the registry of the diocese.

CII. And be it enacted, that every bishop who shall grant or revoke any licence to any curate under this act shall cause a copy of such licence or revocation to be entered in the registry of the diocese; and an alphabetical list of such licences and revocations shall be made out by the registrar of each diocese, and entered in a book, and kept for the inspection of all persons, upon payment of three shillings, and no more; and a copy of every such licence and revocation shall be transmitted by the said registrar to the churchwardens or chapelwardens of the parish, township, or place to which the same relates, within one month after the grant of such licence or revocation thereof, to be by them deposited in the parish chest: provided always, that every such registrar shall for every such copy transmitted to such churchwardens or chapelwardens as aforesaid, be entitled to demand and receive from the incumbent of such benefice a fee of three shillings, and no more; provided also, that in case the archbishop shall, on appeal to him, annul the revocation of any such licence, the bishop by whom such revocation shall have been made, shall, immediately on receiving notice from the archbishop that he had annulled the same, make such or the like order as is hereinbefore directed to be made on the revocation of a licence for non-residence being annulled; which order shall be binding on the registrar and churchwardens respectively to whom the same shall be addressed.

Repeal of part of 6 & 7 Wm. 4, c. 77.

CIII. And whereas in many benefices in Wales, and in the counties adjacent thereunto, many of the inhabitants are imperfectly, or not all, instructed in the English language, and it is expedient that persons to be hereafter instituted or licensed to such benefices should possess an adequate knowledge of the Welsh language: and whereas in and by an act passed in the session of parliament holden in the sixth and seventh years of his late Majesty's reign, intituled, "An act for carrying into effect the reports of the commissioners appointed to consider the state of the established church in

England and Wales, with reference to ecclesiastical duties and revenues, so far as they relate to episcopal dioceses, revenues, and patronage," the said commissioners were directed to prepare, and laid before his then Majesty in council, a scheme for preventing the appointment of any clergyman not fully conversant with the Welsh language to certain benefices with cure of souls in Wales: and whereas it is expedient to repeal such enactment, and instead thereof to enact other provisions of more general and extensive application; be it therefore enacted, that the said enactment shall be and the same is hereby repealed.

CIV. And be it enacted, that within the several dioceses of Saint Asaph, Bangor, Llandaff, and St. David's, it shall and may be lawful for the bishop, if he shall think fit, to refuse institution or licence to any spiritual person who, after due examination and inquiry, shall be found unable to preach, administer the sacraments, perform other pastoral duties, and converse in the Welsh language; provided always, that any such spiritual person may, within one month after such refusal, appeal to the archbishop of Canterbury, who shall either confirm such refusal or direct the bishop to grant institution or licence, as shall seem to the said archbishop just and proper: provided also, that nothing hereinbefore contained shall be construed to affect or abridge any rights which the inhabitants of any benefice within the said four Welsh dioceses may at present by law possess of entering a caveat against or objecting in due course of law to the institution, collation, or licence of any spiritual person, or of proceeding to procure the deprivation of any such person.

CV. And be it enacted, that all the provisions and powers of this act relating to the appointment of curates where the ecclesiastical duties are inadequately performed, shall, within the several dioceses of Saint Asaph, Bangor, Llandaff, and Saint David's, extend and apply to cases wherein the bishop shall see reason to believe that the ecclesiastical duties of any benefice are not satisfactorily performed, by reason of the insufficient instruction in the Welsh language of the spiritual person serving such benefice.

CVI. And be it enacted, that no spiritual person shall

Provision
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certain
Welsh
dioceses.

Provision
for curates
in certain
Welsh
dioceses.

No spi-
ritual

person to serve more than two benefices in one day. serve more than two benefices in one day. spiritual person who shall so have served more than two benefices shall forthwith report the circumstance to the bishop of the diocese.

Provisions relating to bishops to apply to archbishops in their own dioceses. CVIL. And be it enacted, that all the powers, authorities, provisions, regulations, matters, and things in this act contained, in relation to bishops in their dioceses, shall extend and be construed to extend to the archbishops in the respective dioceses of which they are bishops, and also in their own peculiar jurisdictions, as fully and effectually as if the archbishops were named with the bishops in every such case.

Power of archbishops and bishops as to exempt or peculiar benefices, &c. CVIIL. And be it enacted, that every archbishop and bishop, within the limits of whose province or diocese respectively any benefice, exempt or peculiar, shall be locally situate, shall, except as herein otherwise provided, have, use, and exercise all the powers and authorities necessary for the due execution by them respectively of the provisions and purposes of this act, and for enforcing the same with regard thereto respectively, as such archbishop and bishop respectively would have used and exercised if the same were not exempt or peculiar, but were subject in all respects to the jurisdiction of such archbishop or bishop; and where any benefice, exempt or peculiar, shall be locally situate within the limits of more than one province or diocese, or where the same or any of them shall be locally situate between the limits of the two provinces, or between the limits of any two or more dioceses, the archbishop or bishop of the cathedral church to whose province or diocese the parish church of the same respectively shall be nearest in local situation, shall have, use, and exercise all the powers and authorities which are necessary for the due execution of the provisions of this act, and enforcing the same, with regard thereto respectively, as such archbishop or bishop could have used if the same were not exempt or peculiar, but were subject in all respects to the jurisdiction of such archbishop or bishop respectively; and the same for all the purposes of this act shall be deemed and taken to be within the limits of the province or diocese of such archbishop or

bishop; provided that the peculiars belonging to any archbishopric or bishopric, though locally situate in another diocese, shall continue subject to the archbishop or bishop to whom they belong, as well for the purposes of this act as for all other purposes of ecclesiastical jurisdiction.

CIX. And be it enacted, that in every case in which Where jurisdiction is given to the bishop of the diocese, or to any jurisdiction is given to archbishop, under the provisions of this act, and for the purposes thereof, and the enforcing the due execution of the provisions thereof, all other and concurrent jurisdiction in respect thereof shall, except as herein otherwise provided, jurisdiction to cease. wholly cease, and no other jurisdiction in relation to the provisions of this act shall be used, exercised, or enforced, save and except such jurisdiction of the bishop and archbishop under this act; any thing in any act or acts of parliament, or law or laws, or usage or custom, to the contrary notwithstanding.

CX. And be it enacted, that every sequestration issued under the provisions of this act shall have priority, and the sums to be thereby recovered shall be paid and satisfied in preference to all other sequestrations, and the sums to be thereby recovered, except such sequestrations as shall be founded on judgments duly docketed before the passing of this act, and also except such sequestrations as shall have been issued before any sequestration under this act under the provisions of an act passed in the seventeenth year of the reign of King George the Third, for promoting the residence of the parochial clergy, and the monies to be recovered by such excepted sequestrations respectively. Sequestrations under this act to have priority.

CXI. And be it enacted, that all appeals under the provisions of this act to any archbishop shall be in writing signed by the party appealing; and, that in order to discourage frivolous appeals, no proceeding shall be had in any such appeal until the appellant shall, if required, have given security, in such form and to such amount as the archbishop shall direct, of payment to the bishop of such costs as shall be awarded by the archbishop if he shall decide against the appellant; and that after such security, if required, shall have been given, the said archbishop shall forthwith, either by himself or by some commissioner or commissioners ap- The mode of appealing to the archbishop of the province.

pointed under his hand from among the other bishops of his province, make, or cause to be made, inquiry into the matter complained of; and shall after such inquiry, and in the latter case after a report in writing from his said commissioner or commissioners, give his decision in such appeal in writing under his hand; and when he shall decide the merits of the appeal against the appellant he shall also award and direct whether any and what amount of costs shall be paid by the appellant to the bishop respondent; and in like manner when he shall decide in favour of the appellant, he shall also award and direct whether any and what amount of costs shall be paid by the bishop respondent to the appellant.

Regulations
respecting
monitions
and sequestrations.

As to service of
monition
and any
other instrument
or notice.

Monition
or other
instrument
or notice
to be
returned
into the
consistorial
court, with
affidavit
of service.
Party monitioned
may show

CXII. And be it enacted, that in all cases in which proceedings under this act are directed to be by monition and sequestration, such monition shall issue under the hand and seal of the bishop, and such monition, and any other instrument or notice issued in pursuance of the provisions of this act, and not otherwise specially provided for, shall be served personally upon the spiritual person therein named or to whom it shall be directed, by showing the original to him and leaving with him a true copy thereof, or, in case such spiritual person cannot be found, by leaving a true copy thereof at his usual or last known place of residence, and by affixing another copy thereof upon the church door of the parish in which such place of residence shall be situate, and also, in the case of such monition, by leaving another copy thereof with the officiating minister or one of the churchwardens of the said parish, and also by affixing another copy thereof on the church door of the parish in which the benefice of such spiritual person shall be situate; and such monition or other instrument, or notice as aforesaid, shall, immediately after the service thereof, be returned into the consistorial court of such bishop, and be there filed together with an affidavit of the time and manner in which the same shall have been served; and thereupon, in case of such monition, it shall be competent to the party monitioned to show cause, by affidavit or otherwise, as the case may require, why a sequestration should not issue according to the tenor of such monition; and if such spiritual person shall not, within the time assigned by such monition, show suf-

ficient cause to the contrary, such sequestration shall issue cause
 under the seal of the consistorial court of such bishop, and against
 shall be served and returned into the registry of such court the issuing
 in like manner as is hereinbefore directed with respect to of seques-
 tration.
 monitions issued under the provisions of this act.

CXIII. Provided always, and be it enacted, that in any Seques-
 case of non-residence in which a monition shall have been tration not
 served upon any spiritual person under the provisions of this to issue
 act, requiring such spiritual person to reside on his benefice, after
 no sequestration shall issue until an order requiring such monition
 spiritual person to proceed and reside upon such benefice to reside,
 within thirty days, as hereinbefore enacted, shall have been until ser-
 vice of
 served upon him in the same manner as is hereinbefore order.
 directed as to the service of monitions.

CXIV. And be it enacted, that all penalties and forfeitures Recovery
 which shall be incurred under this act by any spiritual person of penal-
 holding a benefice shall and may be sued for and recovered ties against
 in the court of the bishop of the diocese in which such bene- spiritual
 fice is situate, and by some person duly authorized for that persons.
 purpose by such bishop, by writing under his hand and seal,
 and in no other court, and by or at the instance of no other
 person whatever; and that the payment of every such penalty
 or forfeiture, together with the reasonable expense incurred
 in recovering the same, shall and may be enforced by monition
 and sequestration; and that it shall and may be lawful for
 such bishop, by any order made for that purpose in writing,
 under his hand, and to be registered in the registry of the
 diocese, which the registrar is hereby required to do, to
 direct that every such penalty or forfeiture, so recovered as
 aforesaid, and which shall not have been remitted in whole
 or in part, or so much thereof as shall not have been re-
 mitted, shall be applied towards the augmentation or improve-
 ment of such benefice or of the house of residence thereof or
 of any of the buildings or appurtenances thereof.

CXV. And be it enacted, that all fees, charges, costs, and Recovery
 expenses incurred or directed to be paid by any spiritual of fees, &c.
 person holding any benefice under the provisions of this act,
 which shall remain unpaid for the period of twenty-one days
 after demand thereof in writing delivered to or left at the
 usual or last place of abode of such spiritual person, may be

recovered by monition and sequestration : provided always, that it shall be lawful for the person or persons of whom any such fees, costs, charges, and expenses shall be so demanded to apply to the bishop of the diocese to order the taxation thereof, and such bishop shall thereupon order some proper person to tax and settle the same ; and the certificate of allowance by the person so to be appointed, of such fees, costs, charges, and expenses so to be taxed, shall be final.

Penalty on registrar for neglect.

CXVI. And be it enacted, that if the registrar of any diocese shall refuse or neglect to make any entry, or to do any other matter or thing prescribed by this act, he shall forfeit for every such refusal or neglect the sum of five pounds.

Recovery of penalties against laymen or unbene-ficed clergymen.

CXVII. And be it enacted, that all penalties and forfeitures under this act incurred by persons not spiritual, or by spiritual persons not holding benefices, shall be sued for and recovered by any person who will sue for the same by action of debt in any of her Majesty's courts of record at Westminster.

Penalties not recoverable for more than one year.

CXVIII. And be it enacted, that no penalty shall be recovered against any spiritual person under the provisions of this act, other or further than those which such spiritual person may have incurred subsequent to the first day of January in the year immediately preceding the year in which such proceedings shall be commenced.

Application of penalties.

CXIX. And be it enacted, that all penalties recovered under the provisions of this act, the application of which is not specially directed thereby, shall be paid over to the treasurer of the governors of the bounty of Queen Anne, to be applied to the purposes of the said bounty.

Commencement and conclusion of the year.

CXX. And be it enacted, that for all the purposes of this act, except as herein otherwise provided, the year shall be deemed to commence on the first day of January, and be reckoned therefrom to the thirty-first day of December, both inclusive.

How months to be calculated.

CXXI. And be it enacted, that for all the purposes of this act the months therein named shall be taken to be calendar months, except in any case in which any month or months are to be made up of different periods less than a month, and in every such case thirty days shall be deemed a month.

CXXII. And be it enacted, that in every case where by the provisions of this act the copy of any licence is required to be filed or entered in the registry of the diocese, a copy thereof, certified by the registrar, shall be admissible as evidence in all courts and places whatever. Certified copy of entry of licence to be evidence.

CXXIII. And be it enacted, that when authority is given by this act to any archbishop or bishop to require any statement or facts to be verified by evidence, or to inquire or to cause inquiry to be made into any facts, such archbishop or bishop may require any such statement or any of such facts to be verified in such manner as the said archbishop or bishop shall see fit; and that when any oath, affidavit, or affirmation, or solemn declaration is or may be by or in pursuance of the provisions of this act required to be made, such oath, affidavit, or affirmation, or solemn declaration shall and may be made either before such archbishop or bishop, or the commissioner or commissioners, or one of them, of such archbishop or bishop respectively, or before some ecclesiastical judge or his surrogate, or before a justice of the peace, or before a master or master extraordinary in chancery, who are hereby authorized and empowered in all and every of the cases aforesaid to administer such oath, affidavit, and affirmation, or to take such declaration, as the case may be. State-ments how to be verified.

CXXIV. And be it enacted, that in all cases where the term "cathedral preferment" is used in this act, it shall be construed to comprehend (unless it shall otherwise appear from the context) every deanery, archdeaconry, prebend, canonry, office of minor canon, priest vicar, or vicar choral, having any prebend or endowment belonging thereto, or belonging to any body corporate consisting of persons holding any such office, and also every precentorship, treasurer'ship, sub-deanery, chancellorship of the church, and other dignity and office in any cathedral or collegiate church, and every mastership, wardenship, and fellowship in any collegiate church; and that in all cases where the term "benefice" is used in this act, the said term shall be understood and taken to mean benefice with cure of souls, and no other (unless it shall otherwise appear from the context), and therein to comprehend all parishes, perpetual curacies, donatives, endowed public chapels, parochial chapelries, and chapelries or dis- Definition of the term "cathedral preferment,"
and of the term "benefice."

tracts belonging or reputed to belong, or annexed or reputed to be annexed, to any church or chapel, any thing in any other act to the contrary notwithstanding.

Who to be considered patron.

CXXV. And be it enacted, that in every case in which the consent of, or the execution of any deed or deeds, instrument or instruments by, the patron of any cathedral preferment, or of any benefice, sinecure rectory, or vicarage, or the owner or impropiator of any lands, tithes, tenements, or hereditaments, is required for carrying into effect any of the purposes of this act, and also in every case in which it may be necessary to give any notice to any such patron for any of the said purposes, the consent of execution by or notice to the patron or person entitled to make donation or present or nominate to such cathedral preferment, benefice, sinecure rectory, or vicarage, in case the same were then vacant, or the person or persons who shall be in the actual possession, receipt, or perception of the rents, proceeds, or profits of such lands, tithes, tenements, or hereditaments for an estate or interest not less than an estate for life, shall respectively be sufficient.

How consent of patron to be testified where patronage in the Crown.

CXXVI. And be it enacted, that in any case in which the consent of the patron of any benefice shall be required to the exercise of any power given by this act, or in which any notice shall be required by this act to be given to the patron of any benefice, and the patronage of such benefice shall be in the Crown, the consent of the Crown to the exercise of such power shall be testified, and such notice shall be given respectively in the manner hereinafter mentioned; (that is to say,) if such benefice shall be above the yearly value of twenty pounds in the Queen's books, the instrument by which the power shall be exercised shall be executed by, and any such notice shall be given to, the Lord High Treasurer or first Lord Commissioner of the Treasury for the time being; and if such benefice shall not exceed the yearly value of twenty pounds in the Queen's books, such instrument shall be executed by, and any such notice shall be given to the Lord High Chancellor, Lord Keeper, or Lords Commissioners of the great seal, for the time being; and if such benefice shall be within the patronage of the Crown in right of the Duchy of Lancaster, such instrument

shall be executed by, and any such notice shall be given to the chancellor of the said duchy for the time being; and the execution of such instrument by, and any such notice given to such person or persons, shall be deemed and taken for the purposes of this act, to be an execution by and a sufficient notice to the patron of the benefice.

CXXVII. And be it enacted, that in any case in which the consent of the patron of any benefice shall be required to the exercise of any power given by this act, and the patron of such benefice shall be a minor, idiot, lunatic, or feme covert, it shall be lawful for the guardian or guardians, committee or committees, or husband of such patron (but in case of a feme covert with her consent in writing) to execute the instrument by which such power shall be exercised in testimony of the consent of such patron; and such execution shall, for the purposes of this act, be deemed and taken to be an execution by the patron of the benefice.

CXXVIII. And be it enacted, that in any case in which the consent of the patron of any benefice shall be required to the exercise of any power given by this act, or in which any notice shall be required by this act, to be given to the patron of any benefice, and the advowson and right of patronage of such benefice shall be part of the possessions of the duchy of Cornwall, the consent of the patron of such benefice to the exercise of such power shall be testified, and such notice shall be given respectively in the manner hereinafter mentioned; (that is to say,) the instrument by which the power shall be exercised shall be executed by, and any such notice shall be given to the Duke of Cornwall for the time being, if of full age, but if such benefice shall be within the patronage of the Crown in right of the duchy of Cornwall, such instrument shall be executed by, and any such notice shall be given to the same person or persons, who is or are by this act authorized to testify the consent of the Crown to the exercise of any power given by this act, in respect of any benefice in the patronage of the Crown; and the execution of such instrument by, and any such notice given to such person or persons shall be deemed and taken for the purposes of this act to be an execution by, and a sufficient notice to the patron of the benefice.

How
where
patron is
an incapa-
citated
person.

How
where
patronage
is attached
to the
duchy of
Cornwall.

Distance
how to be
computed.

CXXIX. And be it enacted, that the distance between any two benefices for the purposes of this act shall be computed from the church of the one to the church of the other by the nearest road or footpath, or by an accustomed ferry ; and if on one of the said benefices there be two or more churches, then the distance shall be computed from or to the nearest of such churches, as the case may be ; or if on one of such benefices there be no church, then in such manner as shall be directed by the bishop of the diocese in which the benefice proposed to be taken and held by any spiritual person in addition to one already held by him, shall be locally situate.

Population
how to be
computed.

CXXX. And be it enacted, that whenever the population of any place shall be required by this act to be ascertained, the same shall be taken from the latest returns of population made under any act of parliament for that purpose at the time when the question shall arise, if such returns shall apply to the place respecting which the question shall be, but if such place shall only form part of a parish or district named in such returns, then such returns shall be taken to represent truly the population of the parish or district named therein, and from them the population of the place required shall be computed, according to the best evidence of which the subject shall be capable.

Tables of
fees to be
taken by
officers
with re-
spect to
admissions
to bene-
fices, by
whom to
be esta-
blished.

CXXXI. And be it enacted, that the Archbishop of Canterbury, the Lord High Chancellor, and the Archbishop of York, with the assistance of the vicars general of the said two archbishops, and of one of the masters of the high court of chancery, to be selected for that purpose by the Lord High Chancellor, shall ordain and establish tables of fees, and shall have power from time to time to amend or alter such tables of fees, to be taken in respect of donation, presentation, nomination, collation, institution, installation, induction, or licence, or any instrument, matter or thing connected with the admission of any spiritual person to any cathedral preferment or any benefice throughout England and Wales, by any officer, secretary, clerk, or minister to whom belong the duties of preparing, sealing, transacting, or doing any of such instruments, matters, and things ; and before the fees contained in such tables or such amended

tables shall be demanded, taken, or received by any of the said persons such tables or amended tables shall be submitted to her Majesty's privy council, who may disallow the same or any part thereof; and notice shall be given in the London Gazette of such submission to the privy council; and if within the space of three months from the time of giving such notice the same shall not be disallowed, such fees, or such parts thereof as shall not be disallowed, shall from and after the expiration of the said three months be deemed and taken to be lawful fees, and thenceforward such fees, and none others, save only such as may be altered or subsequently ordained, as before provided, shall be demanded, taken, or received by any of such officers, secretaries, clerks, or ministers respectively, under any colour or pretence whatsoever: provided always that the said persons shall not ordain or establish any fees exceeding the fee which for the twenty years next preceding the passing of this act shall have been usually taken for or in respect of the same instrument, matter, or thing in case of admission to any cathedral preferment or any benefice within the diocese of London: provided also, that the said persons shall have power to ordain graduated scales of fees in respect of benefices below the yearly value of five hundred pounds.

CXXXII. And be it enacted, that nothing in this act contained shall be deemed, construed, or taken to derogate from, diminish, prejudice, alter, or affect, otherwise than is expressly provided, any powers, authorities, rights or jurisdiction already vested in or belonging to any archbishop or bishop under or by virtue of any statute, canon, usage, or otherwise howsoever. Act not to affect powers of bishops.

CXXXIII. And be it enacted, that no provision in this act contained shall extend or be construed to extend to that part of the United Kingdom called Ireland. Act not to extend to Ireland.

[The schedules are omitted for the sake of brevity.]

1 & 2 VICTORIA, cap. 107.

Part of an Act to amend and render more efficient the Church Building Acts.

The powers of the act 1 & 2 Wm. 4, c. 46, extended with respect to endowments to chapels of consolidated chapelries.

XIV. AND whereas by an act passed in the first and second years of the reign of his late Majesty King William the Fourth, intituled, "An act to extend the provisions of an act passed in the twenty-ninth year of the reign of his Majesty King Charles the Second, intituled, 'An act for confirming and perpetuating augmentations made by ecclesiastical persons to small vicarages and curacies,' and for other purposes," it is amongst other things enacted, that it should be lawful for any rector or vicar for the time being of any rectory or vicarage by a deed duly executed by him, to annex to any chapel of ease or parochial chapel, or to any district church or chapel, or any chapel having a district assigned thereto, whether then already built or thereafter to be built (such chapel of ease or other chapel or church, with the district or place to which the same belongs, being situate within the limits or within the original limits of the said rectory or vicarage), any part or parts of the tithes or other annual revenues belonging to such rectory or vicarage, or to grant to the incumbent for the time being of any such chapel of ease or other chapel or church and his successors any annual sum of money, and to charge the same on all or any part of such tithes or other revenues as aforesaid, or on any lands or other hereditaments belonging to the said rectory or vicarage; provided that every such grant and annexation should be made with the consent of the archbishop or bishop of the diocese within which the rectory or vicarage should be situate, or if the rectory or vicarage should be situate within a peculiar jurisdiction belonging to any archbishop or bishop, then with the consent of the archbishop or bishop to whom such peculiar jurisdiction should belong, and also with the consent of the patron or patrons of the said rectory or vicarage, such consents to be signified as in the said act is expressed: And whereas it is expedient that the powers of the last recited act should be enlarged, be it therefore further enacted, that

in all cases in which any contiguous parts of several parishes may have been or shall hereafter be united into a separate and distinct district for all ecclesiastical purposes, and such district shall have been or shall hereafter be duly constituted a consolidated chapelry, it shall be lawful for the rectors or vicars for the time being of the several parishes, parts of which shall have been so united, to have, use, and exercise respectively all the same powers and authorities for annexing to any such consolidated chapelry any part or parts of the tithes or other annual revenues belonging to their rectories or vicarages respectively, and for granting to the incumbent for the time being of any such consolidated chapelry and his successors any annual sum of money to be payable by equal quarterly or equal half-yearly payments, and for charging the same on all or any part of such tithes or other revenues as aforesaid, or on any land or other hereditaments belonging to the said rectories or vicarages respectively as are by the said last recited act given to rectors and vicars for the augmentation of chapels of ease, and such other chapels and churches as are therein and hereinbefore specified: provided always, that the exercise of such powers shall be subject to the like consents (to be signified in the same manner) as is required by the said act with regard to the exercise of the powers of the said act for the augmentation of chapels of ease, and the other chapels and churches therein specified; and in every case in which any such tithes or other revenues shall be annexed by virtue of this act to any consolidated chapelry, the incumbent for the time being thereof shall thenceforth have all the same remedies for recovering and enforcing payment of the premises which shall be so annexed as the rectors or vicars for the time being of the said rectories or vicarages respectively might have had if such annexation had not been made; and in every case in which any annual sum of money shall be granted by virtue of this act to the incumbent of a consolidated chapelry, such incumbent and his successors shall have all such remedies for recovery and enforcing payment thereof by action of debt against the incumbent of the rectory or vicarage by whom any such annual sum shall have been granted, or the incumbent thereof for the time being, or by distress upon the here-

ditaments to be charged therewith, or otherwise as shall in that behalf be specified and given by the deed by which the grant shall be made.

2 & 3 VICTORIA, cap. 49.

Part of an Act to make better Provision for the Assignment of Ecclesiastical Districts to Churches or Chapels augmented by the Governors of the Bounty of Queen Anne; and for other Purposes.

For extending the provisions in 1 & 2 Vict. c. 106, for annexing isolated places to the contiguous parishes, or making them separate benefices.

VI. AND whereas by virtue of the said act passed in the first and second years of the reign of her present Majesty, intituled, "An act to abridge the holding of benefices in plurality, and to make better provision for the residence of the clergy," it is among other things enacted, that when with respect to his own diocese it should appear to the archbishop of the province, or when the bishop of any diocese should represent to the said archbishop, that any tithing, hamlet, chapelry, place, or district within the diocese of such archbishop, or the diocese of such bishop (as the case might be), might be advantageously separated from any parish or mother church, and either be constituted a separate benefice by itself, or be united to any other parish to which it might be more conveniently annexed, or to any other adjoining tithing, hamlet, chapelry, place, or district, parochial or extra-parochial, so as to form a separate parish or benefice, or that any extra-parochial place might with advantage be annexed to any parish to which it is contiguous, or be constituted a separate parish for ecclesiastical purposes; and the said archbishop or bishop should draw up a scheme in writing (the scheme of such bishop to be transmitted to the said archbishop for his consideration) describing the mode in which it appeared to him that the alteration might best be effected, and how the changes consequent on such alteration in respect to ecclesiastical jurisdiction, glebe lands, tithes, rent-charges, and other ecclesiastical dues, rates, and payments, and in respect to patronage and rights to pews, might be made, with justice to all parties interested; and if

the patron or patrons of the benefice or benefices, to be affected by such alteration should consent, in writing under his or their hands, to such scheme, or to such modification thereof as the said archbishop might approve, and the said archbishop should, on full consideration and inquiry, be satisfied with any such scheme or modification thereof, and should certify the same and such consent as aforesaid by his report to her Majesty in council, it should be lawful for her Majesty in council to make an order for carrying such scheme or modification thereof, as the case might be, into effect; and such order, being registered in the registry of the diocese, which the registrar was thereby required to do, should be forthwith binding on all persons whatsoever, including the incumbent or incumbents of the benefice or benefices to be affected thereby, if he or they should have consented thereto in writing under his or their hands; but if such incumbent or incumbents should not have so consented thereto, the order should not come into operation until the next avoidance of the benefice by the incumbent objecting to the alteration, or by the surviving incumbent objecting, if more than one should object thereto, and in such case the order should forthwith after such avoidance become binding on all persons whatsoever: And whereas it is expedient that the said provision should be extended to cases notwithstanding the vacancy or vacancies of the benefice or benefices thereby to be affected; and also that when by such order a separate parish for ecclesiastical purposes is constituted, the same should become a perpetual curacy and benefice, with cure of souls, be it therefore enacted, that any such scheme or modification may be drawn up according to the regulations and directions in such act contained, subject to the consent in writing of the patron or patrons of the benefice or benefices to be affected thereby, under his or their hands, notwithstanding the vacancy of such benefice or benefices; and it shall be lawful for her Majesty in council thereupon to make an order for carrying such scheme, or modification thereof, as the case may be, into effect: and such order, being registered in the registry of the diocese as directed by the said act, shall come into operation and shall be forthwith binding on all persons whatsoever, notwithstanding such vacancy or vacancies.

The scheme or modification may be made according to the regulation of the recited Act, subject to the consent of the patron, notwithstanding vacancy of benefice.

Who are to be considered patrons for such purpose.

VII. And be it further enacted, that the provisions contained in the said last-recited act touching the party or parties who shall be considered patron or patrons, and the manner in which the consent of the patrons shall in certain cases be given, for the purposes of such act, shall apply to the consent of the patron or patrons hereinbefore last required to be given.

Where a separate parish for ecclesiastical purposes is constituted by order in council, the same shall be a perpetual curacy with cure of souls within the district assigned to it by such order.

VIII. And be it further enacted, that when by any order of her Majesty in council as aforesaid a separate parish for ecclesiastical purposes is constituted, the same shall, on registration thereof, and with the consent in writing of the incumbent or incumbents of the benefice or benefices to be thereby affected, become a perpetual curacy and benefice, and the minister thereof, duly nominated and licensed thereto, and his successors, shall be a body politic and corporate, with perpetual succession, and may receive and take to himself and his successors all such lands, tenements, tithes, rent-charges, and hereditaments as shall be granted unto him or them, and such perpetual curate shall thenceforth have, within the limits of the district parish formed under the church building acts for the church of such perpetual curacy, sole and exclusive cure of souls, and shall not in any wise be subject to the control or interference of the incumbent or incumbents of the benefice or benefices to be affected by such order, if he or they shall have consented to such order as aforesaid; but if such incumbent or incumbents shall not have so consented thereto, this last-mentioned provision shall not come into operation until the next avoidance of the benefice by the incumbent objecting thereto, or by the surviving incumbent objecting, if more than one shall object thereto, and in such case the last-mentioned provision shall forthwith after such avoidance come into operation, and shall be binding on all persons whatsoever.

Governors of Queen Anne's bounty may accept endowments for churches and chapels built under

XII. And whereas it is expedient to make provision for the more permanent security of the endowments and emoluments which shall have been or may hereafter be provided for the use or benefit of any church or chapel whether built, acquired, or appropriated, or to be built, acquired, or appropriated under the authority of the said recited acts or of any of them, or under any other authority, or for the use or

benefit of the incumbent of any such church or chapel, or of the spiritual person serving the same ; be it therefore enacted, that it shall and may be lawful for the said governors of the bounty of Queen Anne to accept, take, and hold any such endowments and emoluments upon the trusts and for the intents and purposes for which the same shall have been or may hereafter be given or granted by the person or persons providing the same, in like manner as any such endowments or emoluments may now be taken or held by any private trustees or trustee ; and it shall and may be lawful for any trustees or trustee of any such endowments or emoluments to assign and transfer the same to the said governors of the bounty of Queen Anne, to be held and applied by them upon the same trusts and for the same intents and purposes as the same previously to such assignment and transfer were held by such trustees or trustee : provided always, that no such gift, grant, assignment, or transfer shall be made to the said governors of the bounty of Queen Anne until by an instrument in writing under their common seal they shall have signified their consent to accept the same.

powers of the church building acts ;

and trustees of such endowments may assign them to the said governors ; subject to consent.

XIII. And be it further enacted, that in all cases in which such consent of the said governors of the bounty of Queen Anne shall have been so given, the money provided for such endowments shall be paid to the treasurer for the time being of the said governors ; and the receipt or receipts of such treasurer shall be effectual discharges or an effectual discharge for so much money as in such receipts or receipt shall be expressed, to the person or persons paying the same, and after obtaining such receipts or receipt the person or persons paying such money shall be absolutely discharged from all liability touching such money, and from all trusts relating thereto.

Money provided for such endowments to be paid to the treasurer of the said governors, and his receipt to be a good discharge.

XIV. And whereas by an act passed in the first year of the reign of her present Majesty (chapter twenty-three), intituled, "An act to amend the law for providing fit houses for the beneficed clergy," an omission in which was supplied by another act passed in the same session of parliament, (chapter twenty-nine), it was enacted that the monies to arise from the sale or sales of the residence-house, gardens, orchards and appurtenances, and lands belonging to any

Governors of Queen Anne's bounty may lay out at interest any purchase-monies paid to them

under the Act 1 & 2 Vict. c. 23, and appropriate any surplus of such purchase-monies to the benefice on account of which the monies shall have been received.

benefice by the said act under certain circumstances authorized to be sold, should be paid to the said governors of the bounty of Queen Anne, to be by them, with the consent of the ordinary and patron, applied and disposed of in or towards the erection or purchase of some other house and offices, or the purchase of an orchard, garden, and appurtenances, or land for the site of a house, any or either of them, together with land contiguous thereto, and not exceeding twelve acres, suitable for the residence and occupation of the incumbent of such benefice : And whereas the said act makes no provision for authorizing the said governors to lay out at interest the purchase-monies which in any case shall be paid to them under the authority thereof, in the meantime, and until such monies shall be applied and disposed of according to the directions of the said act, nor for the application of the surplus of such monies in case the same monies shall not be wholly applied and disposed of to the purposes contemplated by the said act ; be it therefore enacted, that it shall be lawful for the said governors, and they are hereby required to lay out and invest the said purchase-monies which shall from time to time come into their hands under and by virtue of the said act in the purchase of such stocks, funds, and securities, and at such rate of interest, as they shall think proper, and shall from time to time receive the dividends and interest which shall become payable in respect thereof, and add the same by way of accumulation to the principal, and so from time to time so long as the same shall remain in their hands, or until the same, or so much thereof as shall be required, shall have been applied and disposed of by the said governors in the manner and for the purposes in the said act mentioned ; and further that in case, after the complete execution of the duty or trust imposed on the said governors by the said act of parliament, or of so much thereof as shall be in their power, any sum of money shall remain in their hands undisposed of, such surplus shall be appropriated by the said governors to the particular benefice on account of which the same shall have been received, and shall be applicable and disposable by them for the benefit of such benefice, in such and the same manner, and with such and the same powers of investment, and other

powers and authorities in all respects, according to the rules and regulations of the said governors for the time being, as if the said monies, or the stocks or funds which might be purchased therewith, had been appropriated by the said governors to such benefice out of the general funds and profits of the said governors, or otherwise, for the benefit and augmentation thereof.

XV. And whereas some of the lands and hereditaments which were formerly purchased by the governors of the said bounty, or were otherwise appropriated or annexed, by or with the consent or concurrence of the said governors, to particular benefices, for the augmentation thereof, are situate at an inconvenient distance from the benefices to which they respectively belong, and in such and some other special cases a sale of the lands and hereditaments which have been or may hereafter be so appropriated or annexed may be deemed advantageous; be it therefore enacted, that in every case where any lands or hereditaments which, in consequence of any purchase, allotment, benefaction, donation, or exchange, or otherwise howsoever, shall have been appropriated or annexed to any benefice for the augmentation thereof, by or with the concurrence of the said governors of the bounty of Queen Anne, are situate elsewhere than within the parish or parishes of such benefice, or some adjoining parish or parishes, it shall be lawful for the incumbent of such benefice (with the consent of the said governors of the bounty of Queen Anne, and of the ordinary and patron of such benefice, to be testified as hereinafter mentioned) absolutely to sell and dispose of the said lands and hereditaments, or any part thereof, to any person or persons whomsoever, either together or in parcels, and either by public sale or by private contract, for such sum or sums of money as to the said governors, ordinary, and patron shall seem fair and reasonable; and upon payment of the purchase-money for the same, as hereinafter directed, by deed indented, or in the case of any lands or hereditaments of copyhold or customary tenure by surrender or other customary mode of assurance, to convey and assure the lands or hereditaments comprised in such sale unto and to the use of the purchaser or purchasers thereof, his, her, or their heirs, executors, administrators, or

Power in certain cases and with certain consents to sell lands purchased for or annexed to benefices for the augmentation thereof by the governors of the bounty of Queen Anne.

How consents to be testified.

assigns respectively, or as he, she, or they shall direct or appoint: provided always, that the consent of the said governors, patron, and ordinary to every such sale shall be testified by their respectively executing the deed or other assurance by which the lands or hereditaments comprised in such sale shall be conveyed or assured; except that in the case of any lands or hereditaments of copyhold or customary tenure which shall be conveyed or assured by surrender such consent may be testified by any writing under the corporate seal, or the hand and seal (as the case may be), of each of the consenting parties, which writing shall be produced to the lord or steward of the manor of which the said premises shall be holden, and shall be a sufficient authority to him for accepting from the incumbent and other necessary parties a surrender of the same premises, and such writing shall be entered with the surrender upon the court rolls of the said manor.

Power in certain special cases to sell lands so purchased or annexed.

XVI. And be it further enacted, that in every case where any lands or hereditaments which shall have been so appropriated or annexed to any benefice as aforesaid shall be situate within the parish or parishes of such benefice or some adjoining parish or parishes, but on account of any special circumstance or circumstances a sale of the said lands or hereditaments, or any part thereof, shall be deemed advantageous, it shall be lawful for the incumbent of such benefice, with the consent of the said governors of the bounty of Queen Anne, and of the ordinary and patron of such benefice, to be testified as aforesaid, and with the further consent of the archbishop for the time being of the province in which such benefice is situated, to be testified in like manner, to sell and dispose of and convey and assure the said lands or hereditaments, or any part thereof, in such manner as is hereinbefore directed or authorized with respect to any such lands or hereditaments, where the same shall not be situate within any such parish or parishes as aforesaid.

Power of sale given by 1 & 2 Vict. c. 23, extended.

XVII. And whereas it is expedient that the power which by the said act of the first and second years of the reign of her present Majesty is given to the incumbent of a benefice, with the consent and approbation of the ordinary and patron thereof, and of the archbishop of the province to sell the

residence-house, gardens, orchard, and appurtenances belonging to his benefice, with land contiguous thereto not exceeding twelve acres, should be extended and made applicable to other houses and buildings belonging to any benefice under the circumstances hereinafter mentioned; be it therefore enacted, that in any case in which any dwelling-house, shop, warehouse, or other erection or building (other than the house of residence) belonging to any benefice shall be so old and ruinous as that it would be useless or inexpedient to expend money in repairing and maintaining the same, or for other good and sufficient reasons it shall be thought advisable to sell and dispose of the same, it shall and may be lawful for the incumbent of such benefice, and he is hereby authorized and empowered, with the consent and approbation of the ordinary and patron thereof and of the archbishop of the province, to be signified in the manner prescribed by the last-mentioned act, absolutely to sell and dispose of such dwelling-house, shop, warehouse, or other erection or building, with the yards, gardens, orchard, croft, and appurtenances thereto belonging, or any of them, to any person or persons whomsoever, either altogether or in parcels, and for such sum or sums of money as to such ordinary, patron, and archbishop shall appear fair and reasonable, and upon payment of the purchase-money for the same as hereinafter mentioned, by deed indented, or in the case of copyhold or customary hereditaments by surrender or other customary mode of assurance, to convey and assure the hereditaments which shall be so sold unto and to the use of the purchaser or purchasers thereof, his or their heirs or assigns, or as he or they shall direct or appoint.

XVIII. And be it further enacted, that the monies to arise from any sale or sales which shall be made under any of the provisions of this act shall be paid to the said governors of the bounty of Queen Anne, and that the receipts of the treasurer for the time being of the said governors shall be sufficient discharges for the said monies, or for so much thereof as in such receipts respectively shall be expressed to be received, and shall effectually release and exonerate the person or persons paying the same from all responsibility in respect of the application thereof; and further, that no pur-

Purchase-monies to be paid to the governors of the bounty of Queen Anne;

chaser or purchasers shall be in any wise bound or concerned to ascertain or inquire whether any special circumstance or circumstances or reason or reasons shall exist on account of which any such sale or sales as aforesaid may be deemed advantageous or advisable, or whether such circumstance or circumstances or reason or reasons shall be sufficient to authorize such sale or sales.

and to be by them appropriated to the particular benefice on account of which the same shall have been received, and to be subject, in regard to the application thereof, to all the powers, regulations, &c., of the said governors.

XIX. And be it enacted, that all the monies to arise from any such sale or sale as aforesaid (subject nevertheless, in the case of any lands or hereditaments which shall have been appropriated or annexed to any benefice by or with the concurrence of the said governors of the bounty of Queen Anne, to any stipulation or agreement which the said governors in their discretion may think proper to make for payment thereof of the costs and expenses of such sale or sales or any part thereof) shall be appropriated by the said governors to the particular benefice to which the hereditaments comprised in such sale shall have previously belonged, and shall be applicable and disposable by them for the benefit and augmentation of such benefice in such and the same manner, and with such and the same powers of investment, and other powers and authorities, in all respects, according to the rules and regulations of the said governors for the time being, as if the said monies, or the stocks or funds which might be purchased therewith, were then originally appropriated by the said governors to such benefice out of the general funds and profits of the said governors, or otherwise, for the benefit and augmentation thereof.

Who are to consent as patrons.

XX. And be it enacted, that in any case in which upon the sale of any such lands or hereditaments as aforesaid the patronage of the benefice to which the same shall belong shall be in the crown, or the advowson and right of patronage of such benefice shall be part of the possessions of the duchy of Cornwall, or the patron of such benefice shall be a minor, idiot, lunatic, or feme covert, then and in every such case the consent required by this act on the part of the patron of such benefice shall and may be testified by the execution of such deed or assurance or other writing as aforesaid by such and the same persons as by the said act of the first and second years of the reign of her present Majesty, chapter twenty-

three, are in like cases directed or authorized to testify the consent of the patron to the exercise of the several powers given by the said act, or by certain other acts therein mentioned or referred to; and that in all other cases the consent required by this act on the part of the patron of any benefice shall be given by the person or persons who would be entitled to present or nominate or to collate to such benefice in case the same were actually vacant at the time of giving such consent.

XXI. And be it further enacted, that in the construction of so much of the act as relates to the sales of land and other hereditaments, and the application of the monies to arise therefrom, the word "benefice" shall be taken to extend to and comprise all rectories with cure of souls, vicarages, perpetual curacies, and chapelries, the incumbents of which respectively shall, in right thereof, be corporations sole.

XXII. And be it further enacted, that in any case under the hereinbefore recited acts (except the act passed in the first and second years of her present Majesty's reign, chapter one hundred and six), or of this act, where the patronage of any rectory, vicarage, perpetual curacy, district parish chapelry, district chapelry, or place, shall be in the crown, or the advowson and right of patronage thereof shall be part of the possessions of the duchy of Cornwall, or where the patron thereof shall be a minor, idiot, lunatic, or feme covert, then and in every such case the consent required by such acts on the part of the patron of any such rectory, vicarage, perpetual curacy, district parish chapelry, district chapelry, or place, shall and may be testified in writing under the hands of such and the same persons as by the said act passed in the first and second years of the reign of her present Majesty, chapter twenty-three, are in like cases directed or authorized to testify the consent of the patron to the exercise of the several powers given by the said act, or by certain other acts therein mentioned or referred to; and that in all other cases the consent required by the said recited acts (except as aforesaid) and this act on the part of the patron of any rectory, vicarage, perpetual curacy, district parish chapelry, district chapelry or place, shall be given by the person or persons who would be entitled to present or nominate or to collate thereto in

Definition
of the term
"benefice."

How con-
sent of
patron is
in certain
cases to be
given
under the
recited act.

case the same were actually vacant at the time of giving such consent, except so far as it is by any of such recited acts or this act otherwise expressly provided for.

To what places the act is to extend.

XXIII. And be it further enacted, that this act shall extend only to that part of the United Kingdom called England and Wales, and to the Isle of Man, and to the islands of Guernsey, Jersey, Alderney, and Sark.

3 & 4 VICTORIA, cap. 20.

Part of an Act to amend an Act passed in the First Year of the Reign of his late Majesty King George the First, intituled "An Act for rendering more effectual her late Majesty's gracious Intentions for the Augmentation of the Maintenance of the poor Clergy, and to render valid certain Agreements which have been made in pursuance of the said Act;" and for other Purposes.

Endowments accepted under 2 & 3 Vict. c. 49, by the governors of Q. A. B. to be (except in special cases) subject to the same rules as if they had been appropriated by the governors.

V. AND whereas by an act passed in the second and third years of the reign of her present Majesty (chapter 49), intituled, "An act to make better provision for the assignment of ecclesiastical districts to churches or chapels augmented by the governors of the bounty of Queen Anne, and for other purposes;" after reciting that it was expedient to make provision for the more permanent security of the endowments and emoluments which should have been, or might hereafter be, provided for the use or benefit of any church or chapel, whether built, acquired, or appropriated, or to be built, acquired, or appropriated, under the authority of certain acts therein recited or referred to, or of any of them, or under any other authority, or for the use or benefit of the incumbent of any such church or chapel, or of the spiritual person serving the same, it was enacted, that it should and might be lawful for the said governors of the bounty of Queen Anne to accept, take, and hold any such endowments and emoluments upon the trusts, and for the intents and purposes for which the same should have been or might thereafter be given or granted by the person or persons providing

the same, in like manner as any such endowments or emoluments might then be taken or held by any private trustees or trustee, and that it should and might be lawful for any trustees or trustee of any such endowments or emoluments to assign and transfer the same to the said governors of the bounty of Queen Anne, to be held and applied by them upon the same trusts, and for the same intents and purposes as the same, previously to such assignment and transfer, were held by such trustees or trustee: And whereas it is expedient to make such further provision as is hereinafter contained for the application and disposition of all endowments and emoluments, accepted by or assigned to, or to be accepted by or assigned to the said governors, under the aforesaid provisions of the last recited act; be it therefore further enacted, that all endowments and emoluments whatsoever, already accepted or taken by, or assigned or transferred to, or to be hereafter accepted or taken by, or assigned or transferred to the said governors under the aforesaid provisions of the last recited act, and the money, stocks, parliamentary or other funds or securities, land, hereditaments, or other property, of which the same respectively may consist, shall, so far as circumstances will permit, and subject and without prejudice to the trusts, intents, and purposes upon and for which the same shall have been given or granted by the person or persons providing the same, be appropriated by the said governors to the particular benefice for which the same respectively shall have been provided, and be applicable and disposable by them for the benefit and augmentation of such benefice, in such and the same manner, and with such and the same powers of investment in the purchase of land and exchange for other lands and hereditaments, and otherwise, and other powers and authorities, in all respects according to the rules, orders, and constitutions, for the time being, in force for the management of the bounty of Queen Anne, as if the money, stock, land, hereditaments, or other property, of which such endowments and emoluments may respectively consist, had been originally provided or appropriated by the said governors out of the funds at their disposal, for the benefit and augmentation of the same benefice.

3 & 4 VICTORIA, cap. 113.

Part of an Act to carry into effect, with certain Modifications, the Fourth Report of the Commissioners of Ecclesiastical Duties and Revenues.

Minor canons not to hold any benefice beyond six miles. XLVI. AND be it enacted, that no minor canon hereafter to be appointed in any cathedral or collegiate church shall be allowed to take and hold together with his minor canonry any benefice beyond the limit of six miles from such church¹.

Augmen-
tation by
bishops
and chap-
ters, under
the act
1 & 2 Wm.
4, c. 45, to
be made
with con-
sent of ec-
clesiastical
commis-
sioners. LXXVI. And be it declared and enacted, that nothing in this act or in the said first recited act contained shall be construed to prejudice or affect any of the provisions of an act passed in the second year of the reign of his late Majesty King William the Fourth, intituled, "An act to extend the provisions of an act passed in the twenty-ninth year of the reign of his Majesty King Charles the Second, intituled, 'An act for confirming and perpetuating augmentations made by ecclesiastical persons to small vicarages and curacies,'" and for other purposes, or of the act therein recited: provided nevertheless that after the passing of this act no augmentation made under such provisions by any bishop, or by any chapter whose revenues are affected by this act, or the said first recited act, shall be valid and effectual, without the consent of the ecclesiastical commissioners for England.

4 & 5 VICTORIA, cap. 38¹.

An Act to afford further Facilities for the Conveyance and Endowment of Sites for Schools.

WHEREAS it is expedient that greater facilities should be given for the erection of schools and buildings for the purposes of education; may it therefore please your Majesty that it may be enacted; and be it enacted by the Queen's

¹ See also sect. 15 of 4 & 5 Vict. c. 39.

² See act 7 & 8 Vict. c. 37, and act 12 & 13 Vict. c. 49.

most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal and Commons in this present parliament assembled, and by the authority of the same, that from and after the passing of this act, an act passed in the session held in the sixth and seventh years of the reign of his late Majesty King William the Fourth, intituled, "An act to facilitate the conveyance of sites for school-rooms," shall be and the same is hereby repealed: provided that all matters and things done in pursuance of the said act shall be and remain as valid as though the said act was not repealed; and all matters and things commenced in pursuance of the said act shall be continued according to the provisions of this act, if the same shall be applicable, otherwise shall be continued conformably to the said recited act, which shall be deemed to be still in force with regard to such proceedings.

II. And be it enacted, that any person, being seised in fee simple, fee tail, or for life, of and in any manor or lands of freehold, copyhold, or customary tenure, and having the beneficial interest therein, or in Scotland being the proprietor in fee simple or under entail, and in possession for the time being, may grant, convey, or enfranchise by way of gift, sale, or exchange, in fee simple or for a term of years, any quantity not exceeding one acre of such land as a site for a school for the education of poor persons, or for the residence of the schoolmaster or schoolmistress, or otherwise for the purposes of the education of such poor persons in religious and useful knowledge: provided that no such grant made by any person seised only for life of and in any such manor or lands shall be valid, unless the person next entitled to the same in remainder, in fee simple or fee tail (if legally competent), shall be a party to and join in such grant: provided also, that where any portion of waste or commonable land shall be gratuitously conveyed by any lord or lady of a manor for any such purposes as aforesaid the rights and interests of all persons in the said land shall be barred and divested by such conveyance: provided also, that upon the said land so granted as aforesaid, or any part thereof, ceasing to be used for the purposes in this act mentioned, the same shall thereupon immediately revert to and become a portion

Repeal of 6 & 7 Wm. 4, c. 70; but things done in pursuance thereof declared valid, and those commenced to be continued according to this act.

Landlords empowered to convey land to be used as sites for schools, &c.

of the said estate held in fee simple or otherwise, or of any manor or land as aforesaid, as fully to all intents and purposes as if this act had not been passed, any thing herein contained to the contrary notwithstanding.

Chancellor
and council
of the
duchy of
Lancaster
empowered
to grant
lands to the
trustees of
any exist-
ing or
intended
school.

III. And whereas it may be expedient and proper that the chancellor and council of her Majesty's duchy of Lancaster, on her Majesty's behalf, should be authorized to grant, convey, or enfranchise, to or in favour of the trustee or trustees of any existing or intended school, lands and hereditaments belonging to her Majesty in right of her said duchy for the purposes of this act; be it therefore enacted, that it shall and may be lawful for the chancellor and council of her Majesty's duchy of Lancaster for the time being, by any deed or writing under the hand and seal of the chancellor of the said duchy for the time being, attested by the clerk of the council of the said duchy for the time being, for and in the name of her Majesty, her heirs and successors, to grant, convey, or enfranchise, to or in favour of such trustee or trustees, any lands and hereditaments to be used by them, for the purposes of this act, upon such terms and conditions as to the said chancellor and council shall seem meet; and where any sum or sums of money shall be paid as or for the purchase or consideration for such lands or hereditaments so to be granted, conveyed, or enfranchised as aforesaid, the same shall be paid by such trustee or trustees into the hands of the receiver-general for the time being of the said duchy, or his deputy, and shall be by him paid, applied, and disposed of according to the provisions and regulations contained in an act passed in the forty-eighth year of the reign of his late Majesty King George the Third, intituled "An act to improve the land revenue of the Crown in England, and also of his Majesty's duchy of Lancaster," or any other act or acts now in force for that purpose: provided always, that upon the said land so granted as aforesaid, or any part thereof, ceasing to be used for the purposes in this act mentioned, the same shall thereupon immediately revert to and become again a portion of the possessions of the said duchy, as fully, to all intents and purposes, as if this act or any such grant as aforesaid had not been passed or made, any thing herein contained to the contrary notwithstanding.

48 Geo. 3,
c. 73.
If lands
cease to be
used for the
purposes of
the act,
they shall
revert.

IV. And be it enacted, that for the purposes of this act only, and for such time only as the same shall be used for the purposes of this act, it shall be lawful for any two of the principal officers of the duchy of Cornwall, under the authority of a warrant issued for that purpose under the hands of any three or more of the special commissioners for the time being for managing the affairs of the duchy of Cornwall, or under the hands of any three or more of the persons who may hereafter for the time being have the immediate management of the said duchy, if the said duchy shall then be vested in the crown, or if the said duchy shall then be vested in a Duke of Cornwall, then under the hand of the chancellor for the time being of the said duchy, or under the hands of any three or more of the persons for the time being having the immediate management of the said duchy, by deed under their hands to grant and convey to the trustees or trustee for the time being of any existing school, or of any school intended to be established by virtue of this act, any lands, tenements, or hereditaments forming part of the possessions of the said duchy of Cornwall, not exceeding in the whole one acre in any one parish, upon such terms and conditions as to the said special commissioners or chancellor, or such other persons as aforesaid, shall seem meet: provided always, that upon the said land so granted as aforesaid, or any part thereof, ceasing to be used for the purposes in this act mentioned, the same shall thereupon immediately revert to and become again a portion of the possessions of the said duchy, as fully to all intents and purposes as if this act or any such grant as aforesaid had not been passed or made, any thing herein contained to the contrary notwithstanding.

V. And be it enacted, that where any person shall be equitably entitled to any manor or land, but the legal estate therein shall be in some trustee or trustees, it shall be sufficient for such person to convey the same for the purposes of this act, without the trustee or trustees being party to the conveyance thereof; and where any married woman shall be seised or possessed of or entitled to any estate or interest, manorial or otherwise, in land proposed to be conveyed for the purposes of this act, she and her husband may convey

the same for such purposes by deed, without any acknowledgment thereof; and where it is deemed expedient to purchase any land for the purposes aforesaid belonging to or vested in any infant or lunatic, such land may be conveyed by the guardian or committee of such infant, or the committee of such lunatic respectively, who may receive the purchase-money for the same, and give valid and sufficient discharges to the party paying such purchase-money, who shall not be required to see to the application thereof.

Corporations, justices, trustees, &c., empowered to convey lands for the purposes of this act.

VI. And be it enacted, that it shall be lawful for any corporation, ecclesiastical or lay, whether sole or aggregate, and for any officers, justices of the peace, trustees, or commissioners, holding land for public, ecclesiastical, parochial, charitable, or other purposes or objects, subject to the provisions next hereinafter mentioned, to grant, convey, or enfranchise, for the purposes of this act, such quantity of land as aforesaid in any manner vested in such corporation, officers, justices, trustees, or commissioners: provided always, that no ecclesiastical corporation sole, being below the dignity of a bishop, shall be authorized to make such grant without the consent in writing of the bishop of the diocese to whose jurisdiction the said ecclesiastical corporation is subject: provided also that no parochial property shall be granted for such purposes without the consent of a majority of the rate-payers and owners of property in the parish to which the same belongs, assembled at a meeting to be convened according to the mode pointed out in the act passed in the

sixth year of the reign of his late Majesty, intituled, "An act to facilitate the conveyance of workhouses and other property of parishes, and of incorporations or unions of parishes in England and Wales," and without the consent of the Poor Law Commissioners, to be testified by their seal being affixed to the deed of conveyance, and of the guardians of the poor of the union within which the said parish may be comprised, or of the guardians of the poor of the said parish where the administration of the relief of the poor therein shall be subject to a board of guardians, testified by such guardians being the parties to convey the same: provided also, that where any officers, trustees, or commissioners, other than parochial trustees, shall make any such grant, it shall

5 & 6 Wm.
4, c. 69.

be sufficient if a majority or quorum authorized to act of such officers, trustees, or commissioners, assembled at a meeting duly convened, shall assent to such grant, and shall execute the deed of conveyance, although they shall not constitute a majority of the actual body of such officers, trustees, or commissioners: provided also, that the justices of the peace may give their consent to the making any grant of land or premises belonging to any county, riding, or division by vote at their general quarter sessions, and may direct the same to be made in the manner directed to be pursued on the sale of the sites of gaols by an act passed in the seventh year of the reign of his late Majesty George the Fourth, intituled, "An act to authorize the disposal of unnecessary prisons in England." 7 Geo. 4, c. 18.

VII. And be it enacted, that all grants of land or buildings, or any interest therein, for the purposes of the education of poor persons, whether taking effect under the authority of this act, or any other authority of law, may be made to any corporation sole or aggregate, or to several corporations sole, or to any trustees whatsoever, to be held by such corporation or corporations or trustees for the purposes aforesaid: provided nevertheless, that any such grant may be made to the minister of any parish being a corporation, and the churchwardens or chapelwardens and overseers of the poor, or to the minister and kirk session of the said parish, and their successors; and in such case the land or buildings so granted shall be vested for ever thereafter in the minister, churchwardens, or chapelwardens, and overseers of the poor for the time being, or the minister and kirk session of such parish, but the management, direction, and inspection of the school shall be and remain according to the provisions contained in the deed of conveyance thereof: provided also, that where any ecclesiastical corporation sole, below the dignity of a bishop, shall grant any land to trustees, other than the minister, churchwardens or chapelwardens, and overseers, for the purposes aforesaid, such trustees shall be nominated in writing by the bishop of the diocese to whose jurisdiction such corporation shall be subject: provided that where any school shall be intended for any ecclesiastical district not being a parish as hereinafter defined, it shall be sufficient if

Grants of land may be made to corporations or trustees, to be held by them for school purposes.

the grant be made to the minister and church or chapelwarden or wardens of the church or chapel of such district, to hold to them and their successors in office; and such grant shall enure to vest the land, subject to the conditions contained in the deed of conveyance, in such minister and the church or chapelwarden or wardens for the time being.

Estates
now vested
in trustees
for the pur-
poses of
education
may be
conveyed
to the mi-
nister and
church-
wardens.

VIII. And whereas schools for the education of the poor in the principles of the Established Church, or in religious and useful knowledge, and residences for the masters or mistresses of such schools, have been heretofore erected, and are vested in trustees not having a corporate character; be it therefore enacted, that it shall be lawful for the trustees for the time being of such last-mentioned schools and residences, not being subject to the provisions of the act passed in the last session of parliament, intituled, "An act for improving the conditions and extending the benefits of grammar schools," to convey or assign the same, and all their estate and interest therein, to such ministers and churchwardens and overseers of the poor of the parish within which the same are respectively situate, and their successors as aforesaid, or being situate within an ecclesiastical district not being a parish as hereinafter defined, then to the minister and church or chapelwardens of the church or chapel of such district, and their successors in whom the same shall thereafter remain vested accordingly, but subject to and under the existing trusts and provisions respectively affecting the same.

Any num-
ber of sites
may be
granted for
separate
schools.

IX. And be it enacted, that any person or persons or corporation may grant any number of sites for distinct and separate schools, and residences for the master or mistress thereof, although the aggregate quantity of land thereby granted by such person or persons or corporation shall exceed the extent of one acre: provided that the site of each school and residence do not exceed that extent: provided also, that not more than one* such site shall be in the same parish.

Form of
grants, &c.

X. And be it enacted, that all grants, conveyances, and assurances of any site for a school, or the residence of a

* Extended by 12 & 13 Vict. c. 49, s. 3.

schoolmaster or schoolmistress, under the provisions of this act, in respect of any land, messuages, or buildings, may be made according to the form following, or as near thereto as the circumstances of the case will admit; (that is to say,)

‘ I [*or we, or the corporate title of a corporation*], under the authority of an act passed in the — year of the reign of her Majesty Queen *Victoria*, intituled, “An act for affording further facilities for the conveyance and endowment of sites for schools,” do hereby freely and voluntarily, and without any valuable consideration, [*or do, in consideration of the sum of — to me or us or the said — paid,*] grant, [*alienate,*] and convey to — all [*description of the premises*], and all [*my or our or the right, title, and interest of the —*] to and in the same and every part thereof, to hold unto and to the use of the said — and his *or* their [*heirs, or executors, or administrators, or successors,*] for the purposes of the said act, and to be applied as a site for a school for poor persons of and in the parish of —, and for the residence of the schoolmaster [*or schoolmistress*] of the said school [*or for other purposes of the said school*] and for no other purpose whatever; such school to be under the management and control of [*set forth the mode in which and the persons by whom the school is to be managed, directed, and inspected.*] [*In case the school be conveyed to trustees, a clause providing for the renewal of the trustees, and in cases where the land is purchased, exchanged, or demised, usual covenants or obligations for title may be added.*] In witness whereof the conveying and other parties have hereunto set their hands and seals, this — day of —.

‘ Signed, sealed, and delivered by the said —, in the presence of — of —.’

And no bargain and sale or livery of seisin shall be requisite in any conveyance intended to take effect under the provisions of this act, nor more than one witness to the execution by each party; and instead of such attestation such conveyance of any lands or heritages in Scotland shall be executed with a testing clause, according to the law and practice of Scotland; and, being recorded within sixty days of the date

thereof in the general register of seisin or particular register for the county or stewardry in which the lands or heritages lie, shall, without actual seisin, be valid and effectual in law to all intents and purposes, and shall be a complete bar to all other rights, titles, trusts, interests, and incumbrances, to, in, or upon the lands or heritages so conveyed.

Applica-
tion of pur-
chase-
money for
land sold
by any
ecclesias-
tical cor-
poration
sole.

XI. And be it enacted, that where any land shall be sold by any ecclesiastical corporation sole for the purposes of this act, and the purchase-money to be paid shall not exceed the sum of twenty pounds, the same may be retained by the party conveying, for his own benefit; but when it shall exceed the sum of twenty pounds it shall be applied for the benefit of the said corporation, in such manner as the bishop in whose diocese such land shall be situated shall, by writing under his hand, to be registered in the register of his diocese, direct and appoint; but no person purchasing such land for the purpose aforesaid shall be required to see to the due application of any such purchase-money.

Applica-
tion of
purchase
money for
lands sold
in Scot-
land.

XII. And be it enacted, that the price of any lands or heritages to be sold for the purposes of this act by any heir of entail or other incapacitated person or persons in Scotland, shall be applied and invested in such and the like manner as is directed in relation to any monies awarded to be paid for lands or heritages belonging to heirs of entail or incapacitated persons under an act passed in the first and second years of the reign of his late Majesty King William the Fourth, intituled, "An act for amending and making more effectual the laws concerning turnpike-roads in Scotland."

1 & 2 Wm.
4, c. 43.

Ecclesias-
tical corpo-
ration to
procure a
certificate
as to the
extent of
the land
conveyed.

XIII. And be it enacted, that when any ecclesiastical corporation sole, below the dignity of a bishop, shall grant any land belonging to him in right of his corporation for the purposes of this act, he shall procure a certificate, under the hands of three beneficed clergymen of the diocese within which the land to be conveyed shall be situate, as to the extent of the land so conveyed, to be endorsed on the said deed; which certificate shall be in the form following; (that is to say,)

Form of
certificate.

' WE, *A. B.*, clerk, rector of the parish of —, *C. D.*,
' clerk, rector of the parish of —, and *E. F.*, clerk,

‘ vicar of the parish of —, being three beneficed clergy-
 ‘ men of the diocese of —, do hereby certify, that —,
 ‘ clerk, rector of the parish of —, within the said diocese
 ‘ of —, being about to convey a portion of land situate in
 ‘ the said parish of —, for the purposes of a school, under
 ‘ the powers of the act passed in the — year of the reign of
 ‘ her Majesty Queen *Victoria*, intituled, “An act for affording
 ‘ further facilities for the conveyance and endowment of sites
 ‘ for schools,” we have at his request inspected and examined
 ‘ the portion of land, and have ascertained that the same is
 ‘ situate at [*here describe the situation*], and that the extent
 ‘ thereof does not exceed — acre . As witness our hands,
 ‘ this — day of —, at —, in the county of —, and
 ‘ diocese of —.

‘ Witness — of —.

And until such certificate shall have been signed no such conveyance shall have any force or validity.

XIV. And be it enacted, that when any land or building shall have been or shall be given or acquired under the provisions of the said first recited act or this act, or shall be held in trust for the purposes aforesaid, and it shall be deemed advisable to sell or exchange the same for any other more convenient or eligible site, it shall be lawful for the trustees in whom the legal estate in the said land or building shall be vested, by the direction or with the consent of the managers and directors of the said school, if any such there be, to sell or exchange the said land or building, or part thereof, for other land or building suitable to the purposes of their trust, and to receive on any exchange any sum of money by way of effecting an equality of exchange, and to apply the money arising from such sale, or given on such exchange in the purchase of another site, or in the improvement of other premises used or to be used for the purposes of such trust: provided that where the land shall have been given by any ecclesiastical corporation sole the consent of the bishop of the diocese shall be required to be given to such sale or exchange before the same shall take place: provided also, that where a portion of any parliamentary

Trustees
empowered
to sell or
exchange
lands or
buildings.

grant shall have been or shall be applied towards the erection of any school, no sale or exchange thereof shall take place without the consent of the Secretary of State for the Home Department for the time being.

All conveyances of land under 6 & 7 Wm. 4, c. 70, to be deemed effectual for vesting the fee simple.

XV. And whereas in many cases conveyances of land have been made purporting to be made in pursuance of the powers of the said first recited act, to the minister or incumbent, and the churchwardens or chapelwardens of certain parishes or places, as and for sites of schools or houses of residence for the schoolmasters; and doubts have been entertained whether such conveyances are valid and effectual for the purposes of conveying the fee simple, in consequence of the said statute not containing any words of limitation to the successors of such persons; be it therefore enacted, that all conveyances whereby any land shall have been conveyed to the minister or incumbent and the churchwardens or chapelwardens of any parish or place for the time being, whether made to them as such minister or incumbent and churchwardens and chapelwardens, or to them and their successors, shall be deemed and taken to have been and shall be valid and effectual for the purpose of vesting the fee simple, or such other estate as hath been proposed to be conveyed, in the persons who from time to time shall be the minister or incumbent and the churchwardens or chapelwardens of such place, such minister being the rector, vicar, or perpetual curate, whether endowed or not, of the said parish or place.

Certain conveyances of lands, &c. for purposes of education not enrolled as required by the 9 Geo. 2, c. 36, rendered valid if enrolled within 12 months from the passing of this act.

XVI. And whereas certain lands or buildings have been conveyed for valuable consideration, upon trust for the purposes of the education of the poor, and through inadvertence or other causes the deeds or assurances conveying the same have not been enrolled in Chancery as required by the act passed in the ninth year of the reign of his late Majesty King George the Second, intituled, "An act to restrain the disposition of lands whereby the same become unalienable," and by the said hereinbefore first recited act; be it therefore enacted, that notwithstanding the said provisions, all such conveyances shall be and remain valid for the space of twelve calendar months next ensuing the passing of this act, and if enrolled in Chancery before the expiration of that time shall be and remain valid hereafter as if duly enrolled within the

time required by the provisions of the said acts : provided Proviso for deeds avoided in any suit. nevertheless, that no effect shall be given hereby to any deed or other assurance heretofore made, so far as the same has been already avoided by any suit at law or in equity, or by any other legal or equitable means whatsoever, or to affect or prejudice any suit at law or in equity actually commenced for avoiding any such deed or other assurance, or for defeating the charitable uses in trust or for the benefit of which such deed or other assurance may have been made.

XVII. And be it enacted, that no schoolmaster or school-mistress to be appointed to any school erected upon land conveyed under the powers of this act shall be deemed to have acquired an interest for life by virtue of such appointment, but shall, in default of any specific engagement, hold his office at the discretion of the trustees of the said school. No school-master to acquire a life interest by virtue of his appointment.

XVIII. And for the more speedy and effectual recovery of the possession of any premises belonging to any school which the master or mistress who shall have been dismissed, or any person who shall have ceased to be master or mistress, shall hold over after his or her dismissal or ceasing to be master or mistress, be it enacted, that when any master or mistress, not being the master or mistress of any grammar school within the provision of the act of the last session of parliament hereinafter mentioned, holding any school-room, school-house, or any other house, land, or tenement, by virtue of his or her office, shall have been dismissed or removed, or shall have ceased to be master or mistress, and shall neglect or refuse to quit and deliver up possession of the premises within the space of three calendar months after such dismissal or ceasing to be master or mistress, not having any lawful authority for retaining such possession, it shall be lawful for the justices of the peace acting for the district or division in which such premises are situated, in petty sessions assembled, or any two of them, or for the sheriff of the county in Scotland, and they are hereby required, on the complaint of the trustees or managers of the said school, or some one of them, on proof of such master or mistress having been dismissed or removed, or having ceased to be such master or mistress, to issue a warrant under their hands and seals or under the hand of such sheriff in Scotland, to some one or Justices of the peace or sheriffs to give possession of school-rooms, &c., in case of the refusal of the master.

more of the constables and peace officers of the said district or division, or of the sheriff's officers in Scotland, commanding him or them, within a period to be therein named, not less than ten or more than twenty-one clear days from the date of such warrant, to enter into the premises, and give possession of the same to the said trustees or managers or their agents, such entry and possession being given in England in such manner as justices of the peace are empowered to give possession of any premises to any landlord or his agent under an act passed in the second year of the reign of her present Majesty, intituled, "An act to facilitate the recovery of possession of tenements after due determination of the tenancy."

1 & 2 Vict.
c. 74.

Powers
granted to
the com-
missioners
under
3 & 4 Vict.
c. 60, for
applying
land to
ecclesias-
tical pur-
poses ex-
tended to
land
granted
by way
of gift.

XIX. And whereas by an act passed in the last session of parliament, intituled, "An act to further amend the church building acts," provision was made to enable her Majesty's commissioners for building new churches to apply land in any parish granted to them for any of the purposes of the church building acts to any other ecclesiastical purposes, or for the purpose of any parochial or charitable school, or any other charitable or public purpose relating to any such parish or place: and whereas through an accidental omission such provision does not extend to cases of land granted by way of gift; be it therefore enacted, that such power so given to the said commissioners, so far as it is applicable to the purposes of any school, shall extend to every case of land granted, given, or conveyed to them under the authority of the several acts in the said act recited.

Definition
of the term
"parish."

XX. And be it enacted, that the term "parish" in this act shall be taken to signify every place separately maintaining its own poor, and having its own overseers of the poor and church or chapel wardens.

Act not to
extend to
Ireland.

XXI. And be it enacted, that this act shall not extend to Ireland.

Act not to
affect
1 & 2 Vict.
c. 87, or
3 & 4 Vict.
c. 48.

XXII. And be it enacted, that nothing herein contained shall repeal or affect an act passed in the second year of the reign of her present Majesty, intituled, "An act to facilitate the foundation and endowment of additional schools in Scotland," or another act passed in the last session of parliament, intituled, "An act to enable proprietors of entailed estates in

Scotland to feu or lease on long leases portions of the same for the building of churches and schools, and for dwelling-houses and gardens for the ministers and masters thereof."

XXIII. And be it enacted, that this act may be altered or amended by any act to be passed in this session of parliament. Act may be amended, &c., this session.

4 & 5 VICTORIA, cap. 39⁴.

Part of an Act to explain and amend two several Acts relating to the Ecclesiastical Commissioners for England.

III. AND be it enacted that the holding of an honorary canonry, or of any prebend, dignity, or office, not now in any manner endowed, or whereof the lands, tithes, or other hereditaments, endowments, or emoluments shall have been vested in the ecclesiastical commissioners for England, or which may hereafter be endowed to an amount not exceeding twenty pounds by the year, shall not be construed to prevent the holding therewith of more benefices than one; and that no such prebend, dignity, or office, which was vacant on the thirteenth day of August last, or became so at any time since, shall be deemed to have lapsed by reason of such vacancy, but hath remained and shall remain in the patronage of the archbishop or bishop of the diocese for the time being until a successor shall be collated thereto; and that every such prebend, dignity, or office, which shall hereafter become vacant, and every such honorary canonry, shall in like manner be and remain in the patronage of the archbishop or bishop of the diocese for the time being until a successor shall be collated thereto; any royal prerogative, statute, canon, or usage to the contrary notwithstanding. Honorary preferment may be held with two benefices, 3 & 4 Vict. c. 113, ss. 23, 51, and shall not be subject to lapse.

X. And whereas it is by the thirdly recited act provided, that nothing thereinbefore contained shall be construed to prevent any archdeacon from holding, together with his archdeaconry, two benefices, under the limitations in the said act mentioned with respect to distance, joint yearly value, and population, and one of which benefices shall be The provision in 1 & 2 Vict. c. 106, as to archdeacons holding two benefices, to

⁴ See also 46 sect. 3 & 4 Vict. c. 113.

extend to
peculiars.

situate within the diocese of which his archdeaconry forms a part, or one cathedral preferment in any cathedral or collegiate church of the diocese of which his archdeaconry forms a part, and one benefice situate within such diocese : And whereas doubts are entertained whether the said provision includes benefices of peculiar or exempt jurisdiction, and it is expedient that such doubts should be removed ; be it therefore enacted, that the said provision shall extend and apply to benefices locally situate within the diocese of which any such archdeaconry shall form a part, although the same may not be subject to the jurisdiction of the bishop of such diocese.

Amend-
ments
relating
to minor
canons.

3 & 4 Vict.
c. 113,
ss. 44, 45,
46.

s. 93.

XV. And be it declared and enacted, that, notwithstanding any thing in the secondly recited act contained, any minor canon in any cathedral or collegiate church may take and hold, together with his minor canonry, any benefice which is within the distance prescribed by the said act ; and that in every case in which any dean before the passing of the same act enjoyed a right, as such dean, to appoint any minor canon, nothing therein contained shall be construed to deprive him or his successors thereof ; and that, in the construction of the same act and of this act, the term " minor canon " shall not be construed to extend to or include any other than a spiritual person.

Exchanges
of advow-
sons may
be made
for the
purposes of
unions
under 1 &
2 Vict. c.
106, s. 16.

XXIII. And be it enacted, that whenever it shall be made to appear to the ecclesiastical commissioners for England that it would be expedient to make an exchange of an advowson, or of any right of patronage for any other advowson or right of patronage, with a view to proceedings being taken for the union of two or more benefices under the provisions of the said act passed in the second year of her present Majesty's reign, it shall be lawful for the said commissioners, with the consent of the patron or patrons of every such advowson or right of patronage, and also in case any such advowson or right of patronage shall be vested in or belong to any ecclesiastical corporation, aggregate or sole, with the consent of the bishop of the diocese, or in the case of benefices lying in more than one diocese, then, with the consent of the bishop of each diocese, and where a bishop shall be himself one of the patrons, with the consent of the archbishop of the province,

to certify the same to such archbishop, and that thereupon, if the said archbishop shall think fit, proceedings may be taken under and in pursuance of the provisions of the said last-mentioned act for effecting the union of such benefices ; and the said archbishop, at the same time that he shall certify to her Majesty in council the inquiry and consent referred to in the same act, shall transmit such certificate of the said commissioners to her Majesty in council, together with an abstract of the title to any advowson or right of patronage mentioned in the certificate of the said commissioners, other than advowsons or rights of patronage belonging to any such ecclesiastical corporation as aforesaid, and the opinion of counsel on such title ; and that thereupon it shall be lawful for her Majesty in council in any order for such licence made and issued under the provisions of the same act, to order that such exchange as aforesaid shall take effect, and upon such order being made and registered pursuant to the said act the said exchange shall be valid and effectual without any other assurance in the law ; and notwithstanding that the advowsons or rights of patronage, or any or either of them, exchanged by virtue of the said order, were or was previously thereto vested in or belonged to any such ecclesiastical corporation as aforesaid, and the respective exchangees, their heirs, appointees, successors, and assigns shall thenceforth stand seised of the advowsons or rights of patronage so taken in exchange in the same manner to all intents and purposes, and subject to the same trusts, powers, limitations, charges, and incumbrances (if any) as the advowsons or rights of patronage by them given in exchange were respectively held and were subject.

XXVI. And be it declared and enacted, that the provisions of the secondly recited act respecting the augmentations of benefices, under the provisions of an act passed in the second year of the reign of his late Majesty King William the Fourth, intituled, " An act to extend the provisions of an act passed in the twenty-ninth year of the reign of his Majesty King Charles the Second, intituled, ' An act for confirming and perpetuating augmentations made by ecclesiastical persons to small vicarages and curacies,' and for other purposes therein recited, "do and shall extend and apply to every dean, canon,

Augmen-
tations
under 1 &
2 Wm. 4,
c. 45, made
by corpo-
rations sole
to be with
consent of
ecclesias-
tical
commis-
sioners ;

and build-
ing land
may be let
or sold for
the pur-
pose.

prebendary, or other dignitary or officer whose revenues are or may be affected by any of the provisions of the said two first recited acts, or either of them, or of this act; and if for the purpose of more fully carrying into effect the provisions of the said act relative to augmentations it shall appear to the said commissioners and to any bishop or chapter to be expedient that any land belonging to such bishop or chapter adjacent to or situate within the distance of twenty miles from any city or town should be let or sold for purposes of building or other improvement, it shall be lawful for such bishop or chapter, as the case may be, with the consent of the said commissioners under their common seal, to grant any lease or leases of such land for such period or periods, and upon such conditions as the said commissioners, having regard to the circumstances of the case, shall deem just and equitable, or with the like consent to convey the said land in fee simple for such price as shall appear to the said commissioners to be the full value thereof; provided that the rent in the former case or the purchase-money in the latter case, after reserving to the bishop or chapter, as the case may be, an annual payment equal to the amount theretofore enjoyed in respect of the land so let or sold, shall be wholly applied to the purposes of the said last-mentioned act, the consent of the said commissioners being in all cases necessary to the particular application thereof: provided also that if it be deemed expedient, with a view to the better effecting of such purposes, such rent or purchase-money, or any part thereof, may, with the like consent, be at any time reinvested in the purchase of land.

5 & 6 VICTORIA, cap. 27.

An Act for better enabling Incumbents of Ecclesiastical Benefices to demise the Lands belonging to their Benefices on Farming Leases.

WHEREAS it would be advantageous to ecclesiastical benefices if the incumbents thereof were empowered, with such consent and under such restrictions as are hereinafter expressed, to demise the lands of or belonging to the same for a term of

years certain, for farming purposes : may it therefore please your Majesty that it may be enacted, and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present parliament assembled, and by the authority of the same, that it shall be lawful for the incumbent for the time being of any benefice, from time to time after the passing of this act, by deed under his hand and seal, with the consent of the patron of such benefice, and of the bishop of the diocese wherein the same is locally situated, and where the lands proposed or intended to be leased are of copyhold or customary tenure with the consent also of the lord for the time being of the manor of which the same are holden, in any case where the lease proposed to be granted could not according to the custom of the manor be effectually made without the licence of the lord, such respective consents to be testified by the persons whose consents are hereby required respectively being parties to and signing and sealing such deeds before the execution thereof by such incumbent, to lease any part of the glebe lands or other lands of or belonging to such benefice, either with or without any farmhouses, cottages, barns, or other agricultural buildings or conveniences, parcel of or belonging to such benefice, to any person whomsoever, for any term of years not exceeding fourteen years, to take effect in possession, and not in reversion or by way of future interest, so that there be reserved on every such lease, payable to the incumbent for the time being of such benefice quarterly in every year, during the continuance of the term thereby granted, the best and most improved yearly rent that can be reasonably gotten for the same, without taking any fine, foregift, premium, or other consideration for granting such lease, and so that no such lessee be made dispunishable for waste by any clause or words to be contained in such lease, and so that the lessee do thereby covenant with the incumbent granting such lease, and his successors, for due payment of the rent thereby to be reserved, and of all taxes, charges, rates, assessments and impositions whatsoever which shall be payable in respect of the premises thereby leased, and do further covenant with such incumbent and his successors, that he will not assign or

Incumbents of benefices empowered, with consent of bishop and patron, to lease lands belonging to their benefices for fourteen years, under certain restrictions.

underlet the hereditaments comprised in such lease, or any part thereof, for all and any part of the term thereby granted, without the consent of the bishop of the diocese for the time being and the patron and incumbent for the time being of the said benefice, to be testified by their respectively being parties to and sealing and delivering the deed or instrument by which any assignment or underlease of the same premises, or any part thereof, may be affected ; and that he will in all respects cultivate and manage the lands and hereditaments thereby leased according to the most improved system of husbandry in that part of the country where such lands and hereditaments are locally situated, so far as such system may not be inconsistent with any express stipulation to be contained in such lease ; and that he will keep, and at the end of the term leave, all the lands comprised in such lease, together with the gates, drains, and fences of every description, and other fixtures and things thereupon or belonging thereto, in good and substantial repair and condition ; and that he will at all times during the continuance of the term keep the buildings comprised in such lease, or to be erected during the term upon the lands thereby demised, or on any part thereof, insured against damage by fire, in the joint names of the lessee, his executors or administrators, and of the incumbent of the benefice for the time being, in three fourths at the least of the value thereof : and that he will lay out the money to be received by virtue of any such insurance, and all such other sums of money as shall be necessary, in substantially rebuilding, repairing, and reinstating under the direction of a surveyor to be for that purpose appointed by the incumbent of such benefice for the time being and such lessee, by some writing under their respective hands, such messuages or buildings as shall be destroyed or damaged by fire ; and so that there be inserted in every such lease a reservation for the use of such incumbent and his successors of all timber trees and trees likely to become timber, and of all saplings and underwoods, and of all mines and minerals, except as is hereinafter provided ; and also a power of re-entry, in case the rent thereby to be reserved shall be unpaid for the space of twenty-one days next after the same shall become due, or in case the lessee shall be convicted of felony,

or shall become a bankrupt, or shall take the benefit of any act or acts of parliament now in force or hereafter to be passed for the relief of insolvent debtors, or shall compound his debts, or assign over his estate and effects for payment thereof, or in case any execution shall issue against him or his effects, or in case such lessee shall not from time to time duly observe and perform all the covenants and agreements on his part in such lease to be contained; and so that the lessee in each such lease do execute the same or a counterpart thereof: provided always, that any stipulation, covenant, condition, or agreement in any such lease to be contained, on the part of the lessee, for the adoption and use of any particular mode or system of cultivation, or for the drainage or subdividing, or embanking or warping (in those places where the system of improvement of land called warping is or may be practised), of all or any of the lands comprised in such lease, or for the erection of any new or additional farmhouses, barns, or outhouses, or other farm buildings, which the condition or local situation of the lands to be comprised in such lease may require or render expedient, or for putting in repair any houses, edifices, or buildings to be comprised in any such lease, or for making any substantial improvements on the premises, or for the reservation or payment of any additional rent or rents, or penalty on breach of any of the covenants or agreements contained in any such lease, shall not be deemed or construed to be a fine, foregift, premium, or consideration for the granting of such lease within the meaning of this act: provided also, that nothing herein contained shall be construed to preclude the lessor in any such lease from covenanting that the lessee shall be entitled to have or take from off the demised premises brick, earth, stone, lime, or other materials for the erection or repair of any buildings, or for the construction or repair of drains, or for any other necessary improvements, and sufficient rough timber, to be assigned by the incumbent for the time being, or his agent duly authorized, for any of the purposes aforesaid, and for the making or repair of gates and fences: provided also, that the custom of the country as to outgoing tenants shall apply to each lease to be granted under this act, except so far as the lease shall contain any

Saving for
covenants
respecting
cultiva-
tion, im-
prove-
ments, &c.

In certain cases leases may be granted for twenty years.

express stipulation to the contrary : provided also that the term to be granted by any such lease as aforesaid may be twenty years in any case where the lessee shall covenant thereby to adopt and use any mode or system of cultivation more expensive than the usual course, or to drain or subdivide, or embank and warp, at his expense, any part of the demised premises, or to erect, at his own expense, on the said premises, any buildings, or to repair in a more extensive manner and at a greater expense than is usually required of lessees of farms any buildings on the demised premises, or in any other manner to improve, at his expense, the demised premises or any part thereof.

Parsonage-house and offices and ten acres of glebe situate most conveniently for occupation not to be leased, &c.

II. And be it enacted, that the authority given by this act shall not render valid any lease to be granted in the manner hereinbefore mentioned, unless the parsonage-house or other the house of residence of or belonging to the benefice, and all offices, outbuildings, yards, gardens, orchards, and plantations to such parsonage-house or other house of residence adjoining and appurtenant, and which may be necessary or convenient for actual occupation with such parsonage-house or other house of residence, and also so much glebe land or other land of or belonging to the benefice, and situated the most conveniently for actual occupation by the incumbent, as, together with the site of such parsonage-house or other house of residence, offices, and outbuildings, and with such yards, gardens, orchards, and plantations as aforesaid, shall amount to ten acres at least, if there shall be ten or more acres of such land situated within five miles from the parsonage or other the house of residence, or if there shall be less than ten acres so situated, then the whole of such land shall be reserved out of or not be comprised in such lease, and not be comprised in any subsisting lease for the time being which shall have been previously granted under the authority of this act : provided always, that in any case where the lands comprised in any lease granted under the authority of this act shall be situate five miles or upwards from the parsonage-house or other the house of residence, or (in case there shall be no parsonage-house or other house of residence) from the church or chapel of the benefice to which such lands shall belong, the provision

Proviso.

herein contained for the reservation of a stipulated number of acres of the glebe land or other land of or belonging to the benefice shall not be applicable.

III. And be it enacted, that whenever any lease is intended to be granted under the authority of this act, a competent land surveyor shall be appointed by the bishop of the diocese and the patron and incumbent of the benefice, by some writing under their respective hands; and such surveyor shall make a map or plan under an actual survey of the lands proposed or intended to be leased, and of the other lands of or belonging to the benefice, or of such part or parts of the said other lands as will sufficiently show to the bishop of the diocese and the patron of the benefice the relative positions or local situations and quantities of the lands proposed or intended to be leased, and of the lands (if any) intended to be reserved, and as will enable them to form an accurate judgment of the situation and convenience for actual occupation of the lands intended to be reserved; and such surveyor shall certify that the lands intended to be leased, and such buildings, and other hereditaments (if any) as are intended to be leased therewith, are proper to be leased to a tenant under the provisions of this act, and (in any case where the provision hereinbefore contained respecting the reservation of a stipulated number of acres may be applicable) that the lands which are intended to remain unlet are such part of the glebe land or other land of or belonging to the benefice as is situated the most conveniently for actual occupation by the incumbent thereof; and such surveyor shall also make a valuation on actual survey of the lands and hereditaments proposed or intended to be leased, and shall report what is the best yearly rent which ought to be reserved upon a lease of such lands and hereditaments under the circumstances under which such lease is proposed or intended to be granted, and shall state the course of husbandry or management of such lands and hereditaments which ought in the opinion of such surveyor to be adopted by the tenant thereof; and in any case where it is proposed that the lease shall contain special covenants on the part of the lessee for the drainage or subdividing, or embanking or warping, of all or any of the lands to be com-

Before any lease is granted a surveyor to be appointed, who is to make maps, certificates, valuation, and reports respecting such intended lease.

prised in the lease, or for the erection of any new or additional farmhouses, barns, or outhouses, or other farm buildings, or for putting in repair any houses, edifices, or buildings to be comprised in the lease, or for making any substantial improvement in the premises, such surveyor shall certify that in his opinion the covenants for those purposes are proper covenants to be entered into by the lessee under the circumstances of the case, and he shall state the amount by which the yearly rent to be reserved by the proposed lease ought in his judgment to be diminished in respect or on account of the lessee entering into such covenants; and in any case where it is proposed that the lessee shall be entitled to have or take from off the demised premises brick, earth, stones, lime, or other materials, or rough timber, for any of the purposes hereinbefore mentioned, he shall also certify that in his opinion covenants on the part of the lessor for those purposes are proper to be entered into, and that he has taken the matter into his consideration in estimating the amount of rent to be reserved by the proposed lease; and such surveyor shall in all cases also report upon and state such other matters or things (if any) connected with such intended lease, or the lands and hereditaments proposed or intended to be therein comprised, as he shall, by such bishop, patron, and incumbent, or any of them, be directed to report upon; and the map or plan, certificate, valuation, and report of such surveyor shall be respectively signed by such surveyor, and verified by his declaration to be made before any justice of the peace, and shall, immediately upon the completion thereof, respectively be delivered to the bishop of the diocese: provided always, that in all cases in which there shall be in the possession of the bishop of the diocese, or of the patron or incumbent of any benefice, or of the parish officers of the parish in which such benefice may be comprised, any map or plan made under an actual survey of the parish, or of such part thereof as shall include the lands proposed or intended to be demised, a copy of or an extract from such map or plan may be substituted for the map or plan hereinbefore directed to be made by any such surveyor as aforesaid.

An existing map of the lands may be used.

IV. And be it enacted, that the receipt in writing of the

incumbent by whom any lease shall be granted under the authority of this act, acknowledging that he has received the counterpart, or an attested copy in all cases where there shall be only one part, of such lease, and signed by such incumbent, and indorsed on the lease, shall be conclusive evidence that the counterpart or lease (as the case may be) has been duly executed by the lessee, and also in all cases where there shall be only one part of such lease that the attested copy is a true and faithful transcript of the original lease; and the execution by the bishop and patron, whose consents are hereby made requisite, of any lease to be granted under the authority of this act, shall be conclusive evidence that the lease does not comprise any lands which ought not to be leased under the provisions of this act, and that a proper portion of the glebe land remains unleased, and that the rent reserved by such lease is the best and most improved rent that could be reasonably gotten for the lands and hereditaments comprised therein at the time of granting such lease, and that all the covenants contained in such lease are proper covenants.

Lessor's receipt for counterpart or attested copy of lease to be evidence of its execution; and execution by bishop and patron to be evidence that the lands are proper to be leased, &c.

V. And be it enacted, that no surrender of any lease which shall have been made under the authority of this act shall be valid to any purpose whatsoever unless the bishop of the diocese and the patron and incumbent of the benefice to which the lands or hereditament comprised in such lease shall belong, shall respectively be made parties to, and execute the deed or instrument by which such surrender shall be made; and every such surrender shall have operation from the time only when such deed or instrument as aforesaid shall have been executed by all the persons whose execution thereof is hereinbefore required.

Surrenders of leases.

VI. And whereas there are within divers dioceses certain exempt jurisdictions called peculiars, belonging to the archbishops and bishops of other dioceses, and it is expedient that all the powers, authorities, and duties by this act given to or imposed upon the bishop of the diocese should, as to such peculiars, be given to and imposed upon the archbishop or bishop to whom the same respectively belong; be it therefore enacted, that all the powers, authorities, and duties by this act given to or imposed upon the bishop of any diocese

In cases of peculiars belonging to bishops, such bishops to exercise within their peculiars the powers given by this act.

shall, with respect to the several peculiars locally situated within such diocese, be exercised and performed by the archbishop or bishop to whom such peculiars shall respectively belong, and not by the bishop within whose diocese such peculiar shall be locally situated, but that with respect to all peculiars belonging to any other person than archbishops or bishops such powers, authorities, and duties shall be exercised and performed by the bishop of the diocese within which such peculiars shall be locally situated.

Provision
where
patron or
lord of
manor is
under in-
capacity
or beyond
seas.

VII. And be it enacted, that whenever the consent or concurrence of the patron of any benefice, or of the lord for the time being of any manor, is hereby required, and the patron of such benefice, or the lord for the time being of such manor (as the case may be), shall happen to be a minor, idiot, lunatic, or feme covert, or beyond seas, it shall be lawful for the guardian, committee, husband, or attorney (as the case may be) of such patron or lord (but in the case of a feme covert not being a minor, idiot, or lunatic, or beyond seas, with her consent in writing), to execute the instrument by which such consent or concurrence is to be testified, in testimony of the consent or concurrence of such patron or lord : and such execution shall, for the purposes of this act, be deemed and taken to be an execution by the patron of the benefice or by the lord of the manor (as the case may be).

Provision
where the
patronage
of any
benefice is
in the
Crown.

VIII. And be it enacted, that in any case in which the consent or concurrence of the patron of any benefice is hereby required, and the patronage of such benefice shall be in the crown, the consent or concurrence of the crown shall be testified in the manner hereinafter mentioned ; (that is to say,) if such benefice shall be above the yearly value of twenty pounds in the King's books, the instrument by which such consent or concurrence shall be testified shall be executed by the Lord High Treasurer or First Lord Commissioner of the Treasury for the time being ; and if such benefice shall not exceed the yearly value of twenty pounds in the King's books, such instrument shall be executed by the Lord High Chancellor, or Lord Keeper or Lords Commissioners of the Great Seal, for the time being ; and if such benefice shall be within the patronage of the Crown in right of the Duchy of Lancaster, such instrument shall be executed by the Chan-

cellor of the said duchy for the time being; and the execution of such instrument by such person or persons shall be deemed and taken, for the purposes of this act, to be an execution by the patron of the benefice.

IX. And be it enacted, that in any case in which the consent or concurrence of the patron of any benefice is hereby required, and the right of patronage of such benefice shall be part of the possessions of the Duchy of Cornwall, the consent or concurrence of the patron of such benefice to the exercise of such power shall be testified in the manner hereinafter mentioned; (that is to say,) the instrument by which such consent or concurrence is to be testified shall, whenever there shall be a Duke of Cornwall, whether he be of full age or otherwise, be under his great or privy seal, or if there be no Duke of Cornwall, and such benefice shall be in the patronage of the Crown in right of the Duchy of Cornwall, such instrument shall be executed by the person or persons who is or are authorized to testify the consent or concurrence of the Crown; and such instrument, being so sealed or executed, shall be deemed and taken, for the purposes of this act, to be an execution by the patron of the benefice.

Provision where the patronage is attached to the Duchy of Cornwall.

X. And be it enacted, that in any case in which the consent or concurrence of the patron of any benefice or of the lord of any manor is hereby required, and the patronage of such benefice, or (as the case may be) the lordship of such manor, shall belong to any dean and chapter, or collegiate or other corporate body having a common seal, the consent or concurrence of such dean and chapter, or collegiate or other corporate body, shall be testified by the sealing of the instrument by which such consent or concurrence is to be testified with the common seal of such dean and chapter, collegiate or other corporate body.

Corporate bodies may act by their common seal.

XI. And be it enacted, that the person or persons (if not more than two), or the majority of the persons (if more than two), or the corporation, who or which would for the time being be entitled to the turn or right of presentation to any benefice if the same were then vacant, shall, for the purposes of this act, be considered to be the patron thereof: provided nevertheless, that in the case of the patronage being exercised alternately by different patrons, the person or per-

Person who for the time being would be entitled to present shall be considered the patron.

sons (if not more than two), or the majority of the persons (if more than two), or the corporation, who or which would for the time being be entitled to the second turn or right of presentation to any benefice, if the same were then vacant, shall, for the purposes of this act, jointly with the person or persons or corporation entitled to the first turn or right of presentation, be considered to be the patron thereof.

Provision where any person shall sustain more than one of the characters of bishop, patron, and incumbent.

XII. And be it enacted, that in all cases in which any person shall sustain any more than one of the aforesaid characters of bishop of the diocese, patron, lord of the manor, and incumbent, in respect of any benefice to which the provisions of this act extend, every such person shall or may at any time act in both or all of the characters which he shall so sustain as aforesaid, and execute and do all and every or any of such deeds and acts as are hereby authorized to be executed and done, as effectually as different persons, each sustaining one of those characters, could execute and do the same.

The power of the act to extend to lands, &c., held in trust for corporations.

XIII. And be it enacted, that whenever any lands or hereditaments proposed to be leased under the provisions of this act are or shall be vested in any trustee or trustees, in trust for or for the benefit of any incumbent hereby empowered to grant leases as aforesaid, in such a manner as that the net income or three fourth parts at the least of the net income of such lands and hereditaments is, are, or shall be payable for the exclusive benefit of such incumbent, all the powers of this act which, in case such lands and hereditaments had been legally vested in such incumbent for the sole and exclusive benefit of such incumbent, might have been exercised by such incumbent in relation to or affecting the same lands and hereditaments, shall or may be exercised by such incumbent in the same or the like manner as the same might have been exercised by such incumbent in case the same lands and hereditaments were legally vested in such incumbent as aforesaid; but in order to give legal effect to any lease to be executed in relation to any such lands and hereditaments, in pursuance of this act, the trustee or trustees of the premises intended to be affected thereby shall be made a party or parties to such lease (in addition to the other parties whose concurrence is hereby declared to be requisite to any such lease), and shall join in the demise intended to be thereby

made; and the trustee or trustees of any such lands or hereditaments is and are hereby directed and required at all times to execute any lease to which he or they may be made a party or parties, with a view to give legal effect to any such lease as aforesaid, as soon as the same may be tendered to him or them for execution, after the same shall have been duly executed by the incumbent beneficially entitled to such premises, and the bishop and patron, whose consents are hereby declared to be requisite to the validity of any lease granted by such incumbent; and the fact that any such lease is executed by the said other parties shall be a sufficient authority for the execution thereof by the trustee or trustees of the same premises, and it shall not at any time afterwards be necessary for such trustee or trustees, or for any other person or persons, to prove that such deed was executed by such other parties, or any of them, prior to the execution thereof by such trustee or trustees; provided that no trustee shall by virtue of or under this provision be compellable to execute any lease whereby he shall render himself in any way liable, further than by a covenant for quiet enjoyment by any lessee against the acts of the trustee executing such deed.

XIV. And be it enacted, that the part of every lease granted under this act, which shall belong to any incumbent, or, in case there shall not be more than one part of any such lease an attested copy thereof, and every surrender to be made under this act, together with the writing by which a surveyor shall have been appointed as aforesaid, and the map or plan, or copy of or extract from a map or plan (as the case may be), certificate, valuation, and report hereinbefore directed to be made before the granting of such lease, shall, within six calendar months next after the date of such lease, be deposited in the office of one of the registrars of the diocese wherein such benefice shall be locally situated, to be perpetually kept and preserved therein, except where the benefice shall be under the peculiar jurisdiction of any archbishop or bishop, in which case the several documents before mentioned shall be deposited in the office of the registrar of the peculiar jurisdiction to which such benefice shall be subject; and such registrars respectively, or their respective

Incumbent's part of all instruments, and all maps, &c., shall be deposited in the bishop's registry, except as to peculiarars belonging to bishops.

Deposited documents to be produced to incumbent or patron on application, and office copies given, which are to be admitted as evidence of such instruments in all courts.

Charges which the registrar is entitled to make.

Interpretation of act.

deputies, shall, upon any such deposit being so made, sign and give unto the incumbent a certificate of such deposit ; and such lease and attested copy and other documents so to be deposited shall be produced, at all proper and usual hours, at such registry, to the incumbent of the benefice for the time being, or to the patron of such benefice for the time being, or to any person on their or either of their behalf, applying to inspect the same ; and an office copy thereof, respectively certified under the hand of the registrar or his deputy (and which office copy, so certified, the registrar or his deputy shall, in all cases, upon application in that behalf, give to the incumbent for the time being of such benefice), shall in any action against the lessee, and in all other cases, be admitted and allowed in all courts whatsoever as legal evidence of the contents of such lease, or of any such other document, and of the due execution of the counterpart of such lease by the lessee, if there shall be any counterpart, and of the due execution of the lease and of every such other document by the parties who on the face of such office copy shall appear to have executed the same ; and every such registrar shall be entitled to the sum of five shillings, and no more, for so depositing as aforesaid the documents hereinbefore directed to be deposited, and for certifying the deposit thereof, and the sum of one shilling, and no more, for each search and inspection, and the sum of sixpence, and no more, over and besides the stamp duty (if any) for each folio of seventy-two words of each office copy so certified as aforesaid.

XV. And be it enacted, that in the construction and for the purposes of this act the several following words shall have the meanings hereinafter assigned to them respectively (unless there shall be something in the subject or context repugnant to such construction) ; (that is to say,)

The word "person" shall be construed to include the Queen's Majesty, and any corporation, aggregate or sole, as well as private individual :

The word "lands" shall be construed to include lands of any tenure :

The word "benefice" shall be construed to comprehend every rectory, vicarage, perpetual curacy, donative, endowed public chapel, parochial chapelry, and district

chapelry, the incumbent of which in right thereof shall be a corporation sole :

And every word importing the singular number shall extend and be applied to several persons or things as well as one person or thing ; and every word importing the plural number shall extend and be applied to one person or thing as well as to several persons or things :

And every word importing the masculine gender only shall extend and be applied to a female as well as a male.

XVI. And be it enacted, that this act shall extend only to that part of the united kingdom called England and Wales, and to the Isle of Man, and to the islands of Guernsey, Jersey, Alderney, and Sark. To what parts only the act shall extend.

XVII. And be it enacted, that this act may be amended or repealed by any act to be passed in this present session of parliament. Act may be amended this session.

5 & 6 VICTORIA, cap. 108.

An Act for enabling Ecclesiastical Corporations, aggregate and sole, to grant Leases for long Terms of Years.

WHEREAS it would be advantageous to the estates of ecclesiastical corporations, aggregate and sole, and for the interests of the Church, if such corporations were empowered to grant leases for long terms of years, under proper reservations and restrictions : may it therefore please your Majesty that it may be enacted ; and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present parliament assembled, and by the authority of the same, that it shall be lawful for any ecclesiastical corporation, aggregate or sole, except any college or corporation of vicars choral, priest vicars, senior vicars, custos and vicars, or minor canons, and except also any ecclesiastical hospital, or the master thereof, from time to time after the passing of this act, with such consent and under such restrictions as are hereinafter mentioned, by any deed duly executed, to lease all or any part of the lands or houses of or belonging to such corporation Ecclesiastical corporations, aggregate or sole (with certain exceptions), empowered to grant building

leases
under cer-
tain re-
strictions.

in his or their corporate capacity (except as hereinafter is mentioned), and whether such lands or houses may or may not have been previously leased under the provisions of this act, for any term or number of years not exceeding ninety-nine years, to take effect in possession and not in reversion or by way of future interest, to any person who may be willing to improve or repair the present or any future houses thereon, or any of them, or to erect other houses instead thereof, or to erect any houses or other buildings on any lands whereon no building shall be standing, or who shall be willing to annex any part of the same lands to buildings erected or to be erected on the said lands or any part thereof, or otherwise to improve the said premises or any part thereof; and with or without liberty for the lessee to take down any buildings which may be upon the lands in such leases respectively to be comprised, and to dispose of the materials thereof to such uses and purposes as shall be agreed upon; and with or without liberty for the lessee to set out and allot any part of the respective premises to be comprised in any such lease as and for ways, passages, sewers, drains, wells, reservoirs, yards, or otherwise, for the use and convenience of the respective lessees, tenants, or occupiers of the premises, or for the general improvement of the premises; and also with or without liberty for the lessee to dig, take, and carry away and dispose of such earth, clay, sand, loam, or gravel as it shall be found convenient to remove for effecting any of the purposes aforesaid; so as there be reserved by every such lease the best yearly rent that can be reasonably obtained for the premises therein comprised, payable half-yearly or oftener; and so as every such lease be made without taking any fine, premium, or foregift, or any thing in the nature thereof, for or in respect of the making the same; and so as in every such lease made for the purpose of having buildings erected there shall be contained a covenant on the part of the lessee to build, complete, and finish the houses which may be agreed to be erected on the premises, if not then already done, within a time or times to be specified for that purpose, and to keep in repair during the term such houses; and so as in every such lease made for the purpose of having buildings repaired or rebuilt, there shall be con-

tained a covenant on the part of the lessee or lessees substantially to rebuild or repair the same within a time or times to be specified for that purpose, and to keep in repair during the term the houses agreed to be rebuilt and repaired ; and so as in every such lease, whether for the purpose of having buildings erected or otherwise, there be contained on the part of the lessee a covenant for the due payment of the rent to be thereby reserved, and of all taxes, charges, rates, assessments, and impositions whatsoever affecting the same premises, and also a covenant for keeping the houses erected and to be erected on the premises to be therein comprised (except any works or manufactories which may not be insurable) insured from damage by fire, to the amount of four fifths at least of the value thereof, in some or one of the public offices of insurance in London, Westminster, Norwich, Bristol, Exeter, Newcastle-on-Tyne, York, or Liverpool, or of the Kent Fire Insurance Company (the particular office of insurance being named in the lease), and to lay out the money to be received by virtue of such insurance, and also all such other sums as shall be necessary, in rebuilding, repairing, and reinstating such houses as shall be destroyed or damaged by fire, and also to surrender the possession of and leave in repair the houses erected and to be erected or rebuilt or repaired on the premises therein comprised on the expiration or other sooner determination of the term to be thereby granted, and within twenty-one days after any assignment of such lease shall be made to deliver a copy of such assignment to the lessor or reversioner for the time being ; and so as in every such lease there be contained a power for the lessor or reversioner for the time being, and his or their surveyors and agents, to enter upon the premises, and inspect the condition thereof, and also a proviso, or condition of re-entry for nonpayment of the rent or rents to be thereby reserved, or for nonperformance of any of the covenants, provisoes, and conditions to be therein contained, on the part of the lessee, his executors, administrators, or assigns, and with or without a proviso that no breach of any of the covenants, provisoes, and conditions to be therein contained (except the covenant for payment of the rent, and other such covenants, provisoes, or conditions, if any, as may

be agreed between the parties to be so excepted), shall occasion any forfeiture of such lease, or of the term thereby granted, or give any right of re-entry unless or until judgment shall have been obtained in an action for such breach of covenant, nor unless the damages and costs to be recovered in such action shall have remained unpaid for the space of three calendar months after judgment shall have been obtained in such action; and every such lease may also contain any other covenants, provisoes, conditions, agreements, and restrictions which shall appear reasonable to the lessor for the time being, and the person or persons whose consent is hereby declared to be essential to the validity of such lease, and particularly any provision for apportioning the rent to be reserved by any lease made under this power, and for exonerating any part of the lands or houses to be comprised in any such lease from the payment of any specified portion of the whole rent to be thereby reserved; and so that the respective lessees execute counterparts of their respective leases.

Power to
reserve in-
creased
rent.

II. And be it enacted, that on every or any building or repairing lease to be granted under the authority of this act it shall be lawful for the corporation granting such lease to reserve a small rent, during the six first years of the term thereby created, or during any of such six first years to be specified in that behalf in such lease, and to reserve, in addition to the rent to be so reserved, an increased rent or increased rents, to become payable after the expiration of such six first years, or after any of such six years to be specified in that behalf in such lease (as the case may be), or otherwise to make any such increased rent or rents first payable at any time not exceeding six years after the commencement of the term created by such lease when a stipulated progress shall have been made in the buildings, rebuildings, or reparations in respect of the erection, construction, or reparation of which the same lease shall have been granted.

Land may
be appro-
priated for
streets,
yards, &c.

III. And be it enacted, that it shall be lawful for any corporation hereby empowered to grant leases as aforesaid, with such consent as is hereby declared to be requisite to the validity of any lease to be granted by such corporation under the provisions of this act, to lay out and appropriate any

part or parts of the lands and grounds which such corporation shall be empowered or authorized to lease, on building or repairing leases, under the provisions of this act, as and for a way or ways, yard or yards, garden or gardens, to the buildings erected or to be erected on any of the same lands or grounds, or on any of the adjoining lands or grounds so to be leased as aforesaid, or for yards or places necessary or convenient for carrying on any manufacture or trade, and also to appropriate any part of the same lands and grounds, as and for ways, streets, squares, avenues, passages, sewers, or otherwise, for the general improvement of the estate, and the accommodation of the lessees, tenants, and occupiers thereof, in such manner as shall be mentioned and agreed upon in any lease to be granted as aforesaid, or in any general deed to be executed for that purpose (such general deed, if any, to be duly executed by the corporation hereby authorized to make such deed, and to be made with such consent as last aforesaid, and to be enrolled in one of her Majesty's courts of Record at Westminster within six calendar months from the date of such deed), and also by such lease or general deed to give such privileges and other easements as the corporation hereinbefore authorized to grant such lease or make such deed shall, with such consent as aforesaid, deem reasonable or convenient.

IV. And be it enacted, that it shall be lawful for any ecclesiastical corporation, aggregate or sole, except as aforesaid, from time to time after the passing of this act, with such consent and under such restrictions as are hereinafter mentioned, by any deed or deeds duly executed, to grant by way of lease unto any person or persons whomsoever, any liberties, licences, powers, or authorities to have, use, or take, either in common with or to the exclusion of any other person or persons, all or any of the water flowing, or which shall or may flow or be made to flow, in, through, upon, or over any lands or hereditaments belonging to such corporation in his or their corporate capacity, or any part or parts thereof (except as hereinafter is mentioned), and also any wayleaves or waterleaves, canals, watercourses, tramroads, railways, and other ways, paths, or passages, either subterraneous or over the surface of any lands, store yards, wharfs, or other like ease-

Ecclesiastical corporations may lease running water, and waterleaves.

ments or privileges in, upon, out of, or over any part or parts of the lands belonging to such corporation, in his or their corporate capacity (except as hereinafter is mentioned), for any term or number of years not exceeding sixty years, to take effect in possession and not in reversion or by way of future interest, so as there be reserved on every such grant by way of lease as last aforesaid, payable half-yearly or oftener, during the continuance of the term of years thereby created, the best yearly rent or rents, either in the shape of a stated or fixed sum of money, or by way of toll or otherwise, that can be reasonably had or gotten for the same, without taking any fine, premium, or foregift, or any thing in the nature of a fine, premium, or foregift, for the making thereof (other than any provision or provisions which it may be deemed expedient to insert in any such grant, rendering it obligatory on the grantee or lessee, or grantees or lessees, to repair or contribute to the repair of any roads or ways, or to keep open or otherwise use, in any specified manner, any water or watercourse to be comprised in or affected by any such grant or lease); and so as there be contained in every such grant by way of lease as last aforesaid a condition or power of re-entry, or a power to make void the same, in case the rent thereby reserved or made payable, or any part thereof, shall not be paid within some reasonable time to be therein specified in that behalf; and so as the respective grantees or lessees do execute counterparts of the respective grants or leases, and generally that in and by each or any such grant by way of lease as last aforesaid there shall or may be reserved and contained any other reservations, covenants, agreements, provisoes, or stipulations whatsoever not inconsistent with those hereby required to be reserved or contained in each such grant by way of lease which it shall be deemed expedient to introduce therein.

Power to confirm leases voidable for informality, and to accept surrenders and grant new leases

V. And be it enacted, that it shall be lawful for any corporation hereby empowered to grant leases, from time to time, with such consent as is hereby declared to be requisite to the validity of any lease to be granted by such corporation under the provisions of this act, to confirm any lease, grant, or general deed purporting to have been granted or made under the authority of this act, in any case in which for some

technical error, informality, or irregularity in exercising the powers of this act such lease, grant, or deed shall be voidable or questionable, or to accept an actual or virtual surrender of any lease or grant which shall have been made and executed, or which shall purport to have been made and executed by virtue of this act ; and so far as regards any mines, minerals, quarries, or beds, watercourses, ways, or other easements, which may be comprised in any such surrendered lease or grant, with such consent as aforesaid, to make any new lease or grant thereof in the same manner from time to time, as if the powers of leasing herein contained had not been previously exercised ; and so far as regards any lands and houses comprised in any such surrendered lease which may have been granted for building or repairing purposes, in any case where, at the time when such surrender shall be accepted, one fourth part or more than one fourth part of the term originally granted shall remain unexpired, with such consent as aforesaid, to make a new lease or several apportioned leases of the lands and houses comprised in such surrendered lease, for any time not exceeding the then residue of the term granted, or mentioned or intended to be granted, by such surrendered lease, and at a rent or apportioned rents equal in amount to or exceeding the former rent or rents, yet so nevertheless that no one rent shall be less than forty shillings, and so that the rent to be reserved by any apportioned lease shall in no case exceed one fifth part of the rack-rent value of the land to be comprised in such lease, and of the houses erected or to be erected thereon, when finished and fit for habitation ; and so far as regards any lands and houses comprised in any such surrendered lease which may have been granted for building or repairing purposes, in any case where, at the time when such surrender shall be accepted, less than one fourth part of the term originally granted shall remain unexpired, with such consent as aforesaid, to make any new lease or grant thereof, in the same manner, as far as may be applicable, as if the powers of leasing herein contained had not been exercised ; and so also that in the case of the confirmation of any lease, or of the making of any new lease or grant, whether the same shall be a lease of houses for building or repairing purposes, or a lease or grant of any mines, minerals, quarries, or beds,

watercourses, ways, or other easements, no fine, premium, or foregift shall be accepted for making or giving any such confirmation, or new lease or grant, or apportioned lease respectively, and so as the lessee or grantee, his executors, administrators, or assigns, whose lease or grant shall be so confirmed, or to whom any such new or apportioned lease shall be granted in lieu of any former lease as aforesaid, do consent to accept such confirmation, or new lease or grant, or apportioned lease, and do execute a counterpart thereof.

Mining
leases may
be granted.

VI. And be it enacted, that it shall be lawful for any ecclesiastical corporation, aggregate or sole, except as aforesaid, from time to time, with the consent or consents hereby required, to grant or demise, by lease, for any term not exceeding sixty years, to take effect in possession, and not in reversion or by way of future interest, any mines, minerals, quarries, or beds belonging to such corporation, together with the right of working or of opening and working the same, and of working any adjacent mine by way of outstroke or other underground communication, and together also with such portion of land belonging to such corporation, and all such rights and liberties of way and passage, and other rights, easements, and facilities for the opening and working of all such mines, minerals, quarries, or beds, and leading and carrying away the produce thereof, or otherwise incident to mining operations, as shall be deemed expedient ; and every lease shall contain such reservations by way of rent, royalty, or share of the produce in kind, all or any thereof, or otherwise, and such powers, provisoes, restrictions, and covenants, as shall be approved by the ecclesiastical commissioners for England, due regard being had to the custom of the country or district within which such mines, minerals, quarries, or beds are situate ; and no fine, premium, or foregift, nor any thing in the nature thereof, shall be taken for or in respect of any such lease.

Execution
of a lease
by the
necessary
consenting
parties to
be evi-
dence that
the requi-
sites of

VII. And be it enacted, that the execution of any lease, grant, or general deed by the person or corporation, or several persons or corporations, whose consent is hereby made requisite to the validity of such lease or grant or general deed, shall be conclusive evidence that the several matters and things by this act required to be done and performed previously to the granting or making of such lease, grant, or general deed

have been duly done and performed, and that the property comprised in such lease, grant, or general deed (as the case may be) does not form any part of the property excepted out of the powers of leasing conferred by this act, and that the rent reserved by such lease (except an apportioned lease or grant) is the best rent that could be reasonably obtained for the property or rights comprised in such lease or grant, and that no fine, premium, or foregift, or any thing in the nature thereof, hath been taken for or in respect of the granting or making of such lease or grant, and (in the case of an apportioned lease) that the rent reserved by each such apportioned lease does not exceed one fifth part of the rack-rent value of the land comprised in such lease and of the houses erected or to be erected thereon, when fit for habitation.

VIII. And be it enacted, that nothing in this act contained shall restrain any corporation hereby empowered to grant leases and make grants as aforesaid from granting any leases, or making any grants, whether by way of renewal or otherwise, which such corporation might have lawfully and rightfully granted or made, either under the provisions of any public or private act of parliament, or under any other authority, or in any other manner whatsoever, in case this act had not been passed, or from taking any fine, premium, or foregift from the lessees in any renewed or new leases named or to be named, or from their under-lessees, or from any other persons having or claiming an interest in any such renewal, for any such renewed or new leases, save and except that in every lease (other than any lease granted under the powers of this act) which shall be granted by any such corporation as aforesaid, of any lands or houses which shall have been leased for building or repairing purposes under any of the powers of this act, there shall be reserved the best improved rent, payable half-yearly or oftener, which can be obtained for the same, without taking any fine, premium, or foregift, or any thing in the nature of a fine, premium, or foregift, for making or granting the same.

IX. Provided always, and be it enacted, that this act shall not authorize the granting of a lease, or the laying out or appropriating, for the purposes in this act mentioned, of the palace or usual house of residence of or belonging to any

this act
have been
complied
with.

Act not
to restrain
existing
powers of
leasing,
except that
after a
lease under
this act
the land
shall not
be leased
except at
rack rent.

House of
residence,
garden,
&c., not to
be leased.

archbishop or bishop, or any other corporation sole hereby empowered to grant leases as aforesaid, or of or belonging to any corporation aggregate or to any member of any corporation aggregate hereby authorized to grant leases as aforesaid, or of any offices, outbuildings, yards, gardens, orchards, or pleasure-grounds to any such palace or other house of residence adjoining or appurtenant, and which may be necessary or convenient for actual occupation with such palace or other house of residence, or the grant or lease of any mines, minerals, quarries, or beds, watercourses, ways, or other easements, the grant whereof may be prejudicial to the convenient enjoyment of any such palace or house of residence, or the pleasure-grounds belonging thereto, or the leasing for the purposes aforesaid of any lands which any such corporation sole or aggregate, or any member of any such corporation aggregate, is expressly restrained from leasing by the provisions of any local or private act of parliament now in force.

Improved
value of
episcopal
estates to
be paid to
commis-
sioners.
3 & 4 Vict.
c. 113.

X. And be it enacted, that upon any improvement in the annual value of any see, by means of any lease granted under this act or otherwise, the annual sum, if any, directed to be charged upon the revenues of such see by any order in council, shall, by the authority provided in an act passed in the fourth year of her Majesty's reign, intituled, "An act to carry into effect, with certain modifications, the fourth report of the commissioners of ecclesiastical duties and revenues," be forthwith directed to be increased to the extent of such improvement; or the annual sum (if any) directed by any like order to be paid to the bishop of such see shall, by the like authority, be forthwith directed to be reduced to the like extent, or to be altogether annulled, if not exceeding such improvement; and if such improvement shall exceed the annual sum so directed to be paid to such bishop, or if no annual sum shall have been directed to be paid by or to such bishop, then a fixed annual sum, equal to the excess in the one case, or to the whole of such improvement in the other case, shall, by the like authority, be forthwith directed to be charged upon the revenues of such see; and the increased or reduced or new payment (as the case may be) shall take effect upon the avoidance of the see next after such improvement, and not sooner.

Improved XI. And be it enacted, that the provisions of the said

recited act, and of an act passed in the fourth year of her Majesty's reign, intituled, "An act to explain and amend two several acts relating to the Ecclesiastical Commissioners for England," under which provisions the incomes of the deans and canons of the cathedral church of Saint Paul in London, and of the collegiate churches of Westminster and Manchester, are to be so charged as to leave to such deans and canons the average annual incomes respectively specified in the same acts, shall be extended so as to apply to all other deans and canons of cathedral and collegiate churches (save and except the dean and canons of the cathedral church of Christ in Oxford), whose annual incomes shall be improved beyond the amounts of such average annual incomes respectively; and that upon any improvement in the annual revenues of any cathedral or collegiate church, after the gazetting of any order in council for charging the incomes of the dean or canons thereof, the amount of the charge created by such order shall, by the authority in the first-recited act provided, be forthwith directed to be increased to the extent of such improvement: provided always, that any improvement in the annual value of the revenues of the dean and canons of the said cathedral church of Christ in Oxford by means of any lease granted under the provisions of this act, and not otherwise, shall be subject to the provisions of this act affecting deans and canons of other cathedral or collegiate churches: provided also, that no charge so created, nor any increase of any such charge, shall affect the income of any dean or canon in possession at the time of such improvement.

XII. And be it enacted, that in the case of any arch-deaconry the annnal value of which shall be improved by means of any lease granted under this act, it shall be lawful, by the authority provided in the said first-recited act, forthwith to direct, that from and after the vacancy of such arch-deaconry next following the date of such lease, such portion of the rent, royalty, or other consideration reserved by such lease as by the like authority shall be deemed expedient shall be paid, and the same shall accordingly from time to time be paid to the Ecclesiastical Commissioners for England, and become and be subject to the provisions of the same act: provided always, that the average annual income of the arch-

value of
chapter
property
above a
certain
amount to
be paid to
commis-
sioners.
4 & 5 Vict.
c. 39.

Improved
value of
arch-
deaconries
above a
certain
amount to
be paid to
commis-
sioners.

deacon shall not be thereby left at a less sum than five hundred pounds.

Improved
value of
benefices
above a
certain
amount to
be paid to
commis-
sioners.

XIII. And be it enacted, that, in the case of any benefice the annual value of which shall be improved by means of any lease granted by the incumbent thereof under this act, it shall be lawful, by the authority provided in the first-recited act, at any time within three years from the date of such lease, to direct that from and after the vacancy of such benefice next following such date such portion of the rent, royalty, or other consideration reserved by such lease as by the like authority shall be deemed expedient shall be paid, and the same shall accordingly from time to time be paid to the said Ecclesiastical Commissioners for England, and shall be by them from time to time applied according to the provisions of the same act in making additional provision for the cure of souls: provided always, that notice shall be given to the patron or patrons of such benefice, of any scheme affecting the same, three calendar months previously to such scheme being laid before her Majesty in Council: and the objections (if any) of such patron or patrons shall be laid before her Majesty in Council together with such scheme: provided also, that the average annual income of such benefice shall not under this provision be left at a less sum than six hundred pounds if the population thereof amount to two thousand, nor at a less sum than five hundred pounds if the population thereof amount to one thousand, nor in any other case at a less sum than three hundred pounds: provided also, that in making any such provision for the cure of souls out of rent, royalty, or other consideration reserved by any lease as aforesaid, the wants and circumstances of the places in which the lands, mines, minerals, quarries, or beds demised by such lease are situate shall be primarily considered.

Portion of
improved
value
under
mining
leases to
be paid to
commis-
sioners.

XIV. Provided always, and be it enacted, that in case of any lease of mines, minerals, quarries, or beds granted under this act such portion of the improved value accruing thereunder as by the like authority shall be determined, not being more than three fourth parts nor less than one moiety of such improved value, shall forthwith, and from time to time as the same shall accrue, be paid to the said Ecclesiastical Commissioners for England, and shall be subject to the provisions

relating to monies payable to them ; and the remainder of such improved value shall be deemed to be an improvement within the meaning of the provisions relating to the incomes of archbishops and bishops, deans and canons, archdeacons, and incumbents of benefices respectively.

XV. And be it enacted, that all the powers and authorities vested in her Majesty in Council, and in the said commissioners by the first-recited act with reference to the matters therein contained, and all other the provisions of the same act relating to schemes and orders prepared, made, and issued for the purposes thereof, shall be continued and extended and apply to her Majesty in Council and to the said commissioners, and to all schemes and orders prepared, made, and issued by them respectively with reference to all matters contained in this act, as fully and effectually as if the said powers, authorities, and other provisions were repeated herein.

XVI. And be it enacted, that any lease or leases may be granted under the powers of this act, on the surrender of any existing lease or leases (which shall not have been granted under the provisions of this act) of all or any part of the premises proposed to be comprised in such new lease or leases, and may be granted either to the person or persons surrendering the existing lease or leases, or to any other person or persons whomsoever ; and each holder of any existing lease or leases granted otherwise than under the provisions of this act, of any lands or houses, or of any mines, minerals, quarries, or beds, which, if not in lease, would be capable of being leased under the powers of this act, is hereby authorized to surrender such lease or leases with a view to the granting of a new lease or several new leases thereof, or of any part thereof, under the powers of this act, whether at the time of making such surrender the period at which such existing lease or leases may be legally or accustomably renewable shall or shall not have arrived ; and in the case of any lease granted under the powers of this act on the surrender of any existing lease or leases as aforesaid, an adequate deduction shall be made from the rent, royalty, or other consideration to be reserved on the new lease, in proportion to the value of the term or interest which shall be surrendered as aforesaid in the lands or houses, mines, minerals, quarries,

Powers of
3 & 4 Vict.
c. 113, ex-
tended to
this act.

Leases under the
act may
be made
on the sur-
render of
the exist-
ing leases.

or beds, or any part thereof respectively, comprised in such new lease.

Not necessary to surrender under-leases before the grant of a lease under this act.

4 Geo. 2, c. 28, s. 6.

XVII. And be it enacted, that whenever a surrender shall be made of any existing lease for the purpose of taking a new lease or new leases by virtue of this act, whether the existing lease shall or shall not have been granted under the provisions of this act, the new lease shall be deemed to be a renewal of the surrendered lease within the scope and meaning of the sixth section of an act passed in the fourth year of the reign of King George the Second, intituled, "An act for the more effectual preventing of frauds committed by tenants, and for the more easy recovery of rents and renewal of leases," so far as to render unnecessary the surrender of any under-leases previously to the grant of such new lease, and to give full effect to such new lease in all respects, notwithstanding any under-lease or under-leases may not be surrendered: provided that in any such case as is herein contemplated, if any subsisting unsurrendered under-lease shall contain any covenant or provision for the renewal or extension of the interest conferred by such under-lease, on payment by the under-lessee of a proportionate part of the fines and fees attending the renewal of the chief lease, the under-lessee shall not compel a renewal of the under-lease under such covenant, except upon the terms of securing to the under-lessee, a rent, royalty, or other consideration bearing the same proportion to the whole rent, royalty, or other consideration reserved to the corporation exercising the powers of this act, upon the new lease granted under this act, as the amount which upon any ordinary renewal ought to have been paid by such under-lessee of the fines and fees of or attending such renewal, would have borne to the whole amount of the fines and fees attending such renewal.

Surveyor to make maps, valuation, &c., when a new lease is intended.

XVIII. And be it enacted, that whenever any lease or apportioned leases, or grant by way of lease, is or are intended to be granted or made, or any land or ground is proposed to be laid out or appropriated, under the authority of this act, a competent surveyor shall be appointed in writing by the Ecclesiastical Commissioners for England, with the consent of the corporation proposing to grant such lease or apportioned leases, or make such grant, or to lay out or appropriate

such land or ground (as the case may be); and such surveyor shall make any such report, map, plan, statement, valuation, or certificate, as shall be deemed necessary, and be required by the said commissioners or by such corporation.

XIX. And be it enacted, that no person being or having been an ecclesiastical corporation sole, nor the private estate or representatives of such person, shall be liable to the successor of such corporation for or on account of any dilapidations which shall occur in or about any houses or buildings belonging to such corporation whilst the same shall be held under any lease for building or repairing purposes granted under the powers of this act. As to dilapidations.

XX. And be it enacted, that each lease or grant to be granted or made under the provisions of this act shall be made with the consent of the said Ecclesiastical Commissioners for England, and also with such further consent as herein after mentioned; (that is to say,) each lease or grant or made by any incumbent of a benefice, with the consent of the patron thereof; and each lease or grant by any corporation, either aggregate or sole, under the provisions of this act, of any lands or houses, mines, minerals, quarries, or beds, of copyhold or customary tenure, or of any watercourses, ways, or easements in, upon, over, or under any such lands, where the copyhold or customary tenant thereof is not authorized to grant or make leases or grants for the term of years intended to be created by such lease or grant without the licence of the Lord of the Manor, shall be made with the consent of the lord for the time being of the manor of which the same lands or houses, mines, minerals, quarries, or beds, shall be holden, in addition to the other consents hereby made requisite to the validity of such lease or grant, and such consent shall amount to a valid licence to lease or grant the same lands or houses, mines, minerals, quarries, or beds, watercourses, ways, or easements (as the case may be), for the time for which the same shall be expressed to be demised or granted by such lease or grant. Consents requisite to the validity of leases granted under this act.

XXI. And be it enacted, that the consent of each person whose consent is hereby required to any deed to be made under the authority of this act shall be testified by such person being made a party to such deed, and duly executing the same. Consenting parties to be parties to the deeds.

How consent of patron to be testified where patronage in the Crown;

XXII. And be it enacted, that in any case in which the consent or concurrence of the patron of any benefice is hereby required, and the patronage of such benefice shall be in the Crown, the consent or concurrence of the Crown shall be testified in the manner hereinafter mentioned; (that is to say,) if such benefice shall be above the yearly value of twenty pounds in the King's books, the instrument by which such consent or concurrence is to be testified shall be executed by the Lord High Treasurer or First Commissioner of the Treasury for the time being; and if such benefice shall not exceed the yearly value of twenty pounds in the King's books, such instrument shall be executed by the Lord High Chancellor, Lord Keeper or Lords Commissioners of the Great Seal, for the time being; and if such benefice shall be within the patronage of the Crown in right of the Duchy of Lancaster, such instrument shall be executed by the Chancellor of the said Duchy for the time being; and the execution of such instrument by such person or persons shall be deemed and taken, for the purposes of this act, to be an execution by the patron of the benefice.

how where patronage is attached to the duchy of Cornwall;

XXIII. And be it enacted, that in any case in which the consent or concurrence of the patron of any benefice is hereby required, and the right of patronage of such benefice shall be part of the possessions of the Duchy of Cornwall, the consent or concurrence of the patron of such benefice to the exercise of such power shall be testified in the manner hereinafter mentioned; (that is to say,) the instrument by which such consent or concurrence is to be testified shall, whenever there shall be a Duke of Cornwall, whether he be of full age or otherwise, be under his Great or Privy Seal, or if there be no Duke of Cornwall, and such benefice shall be in the patronage of the Crown in right of the Duchy of Cornwall, such instrument shall be executed by the same person or persons who is or are authorized to testify the consent or concurrence of the Crown; and such instrument being so sealed or executed shall be deemed and taken, for the purposes of this act, to be an execution by the patron of the benefice.

how where patron or

XXIV. And be it enacted, that in any case in which the consent or concurrence of the patron of any benefice, or of

the lord for the time being of any manor, is hereby required, lord of and the patron of such benefice, or the lord for the time being of such manor, as the case may be, shall be a minor, ^{manor is an inca-} idiot, lunatic, or feme covert, or beyond seas, it shall be law- ^{pacitated person.} ful for the guardian, committee, husband, or attorney, as the case may be, of such patron or lord, but in case of a feme covert not being a minor, idiot, or lunatic, or beyond the seas, with her consent in writing, to execute the instrument by which such consent or concurrence is to be testified, in testimony of the consent or concurrence of such patron or lord; and such execution shall, for the purposes of this act, be deemed and taken to be an execution by the patron of the benefice, or by the Lord of the Manor, as the case may be.

XXV. And be it enacted, that the person or persons, if not more than two, or the majority of the persons if more than two, or the corporation, who or which would for the time being be entitled to the turn or right of presentation to any benefice if the same were then vacant, shall, for the purposes of this act, be considered to be the patron thereof: provided nevertheless, that in the case of the patronage being exercised alternately by different patrons, the person or persons, if not more than two, or the majority of the persons if more than two, or the corporation, who or which would for the time being be entitled to the second turn or right of presentation to any benefice if the same were then vacant, shall for the purposes of this act, jointly with the person or persons or corporation entitled to the first turn or right of presentation, be considered to be the patron thereof. ^{Persons entitled to present on vacancy shall be considered the patron.}

XXVI. And be it enacted, that in all cases in which any person shall sustain more than one or all of the characters in which his execution of or consent to or concurrence in any deed or act is required by this act, such person shall or may at any time act in both or all of the characters which he shall so sustain as aforesaid, and execute and do all or any of such deeds and acts as are hereby authorized to be executed and done, as effectually as different persons, each sustaining one of those characters, could execute and do the same. ^{Same party may consent in more than one character.}

XXVII. And be it enacted, that in all cases in which the consent or concurrence of any corporation aggregate having a common seal shall be requisite to any lease, grant, appoint- ^{Corporations aggregate to act by}

their common seal. ment of a surveyor, or other deed, writing, or instrument, to be made in pursuance and for the purposes of this act, the consent or concurrence of such corporation shall be testified by the sealing of the lease, grant, appointment, or other deed, writing, or instrument with the common seal of such corporation.

Act to extend to lands held in trust for corporations.

XXVIII. And be it enacted, that whenever any lands are or shall be vested in any trustee or trustees, in trust or for the benefit of any corporation, aggregate or sole, hereby empowered to grant leases as aforesaid, in such a manner as that the net income, or three fourth parts at the least of the net income, of such lands is or shall be payable for the exclusive benefit of such corporation, all the powers of this act which, in case such lands had been legally vested in such corporation for the sole and exclusive benefit of such corporation, might have been exercised by such corporation in relation to or affecting the same lands, shall or may be exercised by such corporation in the same or the like manner as the same might have been exercised by such corporation in case the same lands were legally vested in such corporation as aforesaid; but in order to give legal effect to any lease, grant, confirmation, or general deed to be executed in relation to any such lands in pursuance of this act, the trustee or trustees of the land intended to be affected thereby shall be made a party or parties to such lease, grant, confirmation, or general deed (as the case may be), in addition to the other parties whose concurrence is hereby declared to be requisite to any such deed, and shall join in the demise, grant, confirmation, or appropriation intended to be thereby made; and the trustee or trustees of any such lands is and are hereby directed and required at all times to execute any deed to which he or they may be made a party or parties, with a view to give legal effect to any such lease, grant, general deed, or confirmation as aforesaid, so soon as the same may be tendered to him or them for execution after the same shall have been duly executed by the corporation beneficially entitled to such lands as aforesaid, and the person or corporation, or several persons or corporations, whose consent is hereby declared to be requisite to the validity of any lease granted by any such corporation, and the fact that any such deed is executed by

the other parties whose execution shall be necessary to give effect to the same shall be a sufficient authority for the execution thereof by the trustee or trustees of the same lands, and it shall not at any time afterwards be necessary for such trustee or trustees or for any other person or persons to prove that such deed was executed by such other parties, or any of them, prior to the execution thereof by such trustee or trustees: provided that no trustee shall by virtue of or under this provision be compellable to execute any deed whereby he shall render himself in any way liable, further than by a covenant for quiet enjoyment by any lessee or grantee as against the acts of the trustee executing such deed.

XXIX. And be it enacted, that the part which shall belong to any corporation exercising any of the powers conferred by this act of any lease, grant, or confirmation which shall be granted or made under the authority of this act, and every map, plan, statement, certificate, valuation, and report relating thereto, shall, within six calendar months next after the date of such lease, grant, apportioned lease, confirmation, or general deed (as the case may be), be deposited with the said Ecclesiastical Commissioners for England, and shall be forever thereafter perpetually kept and preserved in the office of the said commissioners, who shall, upon any such deposit being so made, give unto the corporation by or on behalf of whom such deposit shall have been made a certificate of such deposit: and any instruments or documents which may have been deposited as aforesaid shall be produced at all proper and usual hours, at such office, to the corporation to whose lands or estate the same relate, or to the patron of the benefice, or to any person or persons applying to inspect the same on behalf of any person or corporation as aforesaid; and an office copy of any such instrument or document, certified under the seal of the said commissioners, (and which office copy so certified the said commissioners shall in all cases, upon application in that behalf, give to any corporation or person to whom such liberty of inspection is given as aforesaid,) shall in any action against the lessee, and in all other cases, be admitted and allowed in all courts whatsoever as legal evidence of the contents of such instrument or document, and of the due execution thereof, by the parties who

Counter-
parts of
leases and
certain
other in-
struments
to be de-
posited,
and to be
open to in-
spection;
and office
copies to
be evi-
dence.

on the face of such office copy shall appear to have executed the same, and in the case of any lease, grant, or confirmation, of the due execution by the lessee of the counterpart thereof.

Lease to be void if any fine or premium paid. XXX. And be it enacted, that if in the case of any lease, grant, or confirmation granted or made under this act, any fine, premium, or foregift, or any thing in the nature thereof, shall directly or indirectly have been paid or given by or on behalf of the lessee or grantee, and taken or received by the lessor or grantor, such lease, grant, or confirmation shall be absolutely void.

Interpretation of act. XXXI. And be it enacted, that in the construction and for the purposes of this act the several following words shall have the meanings hereinafter assigned to them respectively, unless there shall be something in the subject or context repugnant to such construction ; (that is to say,)

"Person :" The word "person" shall be construed to include the Queen's Majesty, and any corporation, aggregate or sole, as well as a private individual :

"Lands :" The word "lands" shall be construed to include lands of any tenure, whether the same shall or shall not have any houses or other erections or buildings thereon :

"Houses :" The word "houses" shall be construed to include all erections and buildings whatsoever, whether for residence or for commercial or any other purposes :

"Benefice :" The word "benefice" shall be construed to comprehend every rectory with or without cure of souls, vicarage, perpetual curacy, donative, endowed public chapel, parochial chapelry, and district chapelry, the incumbent or holder of which in right thereof shall be a corporation sole :

Number : And every word importing the singular number shall extend and be applied to several persons or parties as well as one person or party, and several things as well as one thing ; and every word importing the plural number shall extend and be applied to one person or party or thing as well as several persons or parties or things :

Gender. And every word importing the masculine gender shall extend and be applied to a female as well as male.

Act to extend only to England XXXII. And be it enacted, that this act shall extend only to that part of the United Kingdom called England and

Wales, and to the Isle of Man, and to the Islands of Guernsey, Jersey, Alderney, and Sark.

XXXIII. And be it enacted, that this act may be amended or repealed by any act to be passed in this present session of parliament.

and Wales,
Isle of
Man, &c.
Act may
be amend-
ed, &c.,
this ses-
sion.

7 & 8 VICTORIA, cap. 37^a.

An Act to secure the terms on which Grants are made by her Majesty out of the Parliamentary Grant for the Education of the Poor, and to explain the Act of the fifth Year of the Reign of her present Majesty, for the Conveyance of Sites for Schools.

WHEREAS during several years last past divers sums of money have been granted by parliament to her Majesty, to be applied for the purpose of promoting the education of the poor in Great Britain, and similar grants may hereafter be made : and whereas her Majesty hath appointed a committee of her council to receive applications for assistance from such grants and to report thereon, and to advise her as to the terms and conditions upon which such assistance shall be granted, and many such reports have been made and approved of by her Majesty, and the terms and conditions having been assented to by the applicants, grants have been made out of the said fund : and whereas in some cases, by reason of the deeds of endowment of schools in respect of which such applications have been received having been executed before the grant has been made, such terms and conditions have not and cannot be made permanently binding on the estate ; but the parties promoting the said schools have entered into personal obligations or assurances for the due performance of such terms and conditions, though deriving no beneficial interest from the charitable institution which they have established ; and it is desirable to provide permanent security to her Majesty and her successors for the due fulfilment of the

^a See act 11 & 12 Vict. c. 49.

The terms and conditions upon which parliamentary aid has been given towards the building of schools secured upon the site.

terms and conditions, and to relieve the parties from the personal liabilities so entered into for the purpose aforesaid : be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present parliament assembled, and by the authority of the same, that where any grant hath been made or shall hereafter be made out of any sums of money heretofore granted or hereafter to be granted by parliament for the purposes of education in Great Britain under the advice of any committee of the council on education for the time being, upon terms and conditions to provide for the inspection of the school by an inspector appointed or to be appointed by her Majesty and her successors, which shall not be inserted in the conveyance of the site of the school, or in the deed declaring the trusts thereof, and such grant shall be made in aid of the purchase of the site, or of the erection, enlargement, or repair of the school, or of the residence of the master or mistress thereof, or of the furnishing of the school, such terms and conditions shall be binding and obligatory upon the trustees or managers of the said school or other the premises for the time being, in like manner and to the like effect as though they had been inserted in the conveyance of the site of the said school, or in the declaration of the trusts thereof ; and henceforth all personal obligations entered into for the purpose of securing the fulfilment of such terms and conditions shall, so far as they relate thereto, but no further, be null and void : provided nevertheless, that such terms and conditions shall have been or shall be set forth in some document in writing, signed by the trustees of the said school or the major part of them, or by the party or parties conveying the site, in the case where there shall have been a voluntary gift thereof.

The terms upon which aid shall be granted to trustees of ancient endowed schools.

II. And whereas there are many endowments for the purpose of education of the poor in great Britain of ancient date, the schools whereon have become dilapidated, and the funds of such endowment being insufficient for the restoration thereof, application is made by the trustees, or by the persons acting in the discharge of the trusts thereof, for aid out of the said parliamentary grant, but the same hath been declined, because such applicants could not impose upon

their lawful successors in the said trust the conditions which the said committee would have advised her Majesty to require to secure the due inspection of such schools, and it is expedient to enable them to do so ; be it therefore enacted, that where the major part of the trustees of any endowed school for the education of the poor duly appointed under the terms of the deed of endowment, or, when such deed cannot be found or cannot be acted upon, of the persons who shall be in the possession of the endowment, and shall be acting in the execution of the trusts or the reputed trusts thereof, shall, and in cases where there shall be a visitor of such school, with the consent of such visitor in writing, apply for aid out of such parliamentary grant to enable them to rebuild, repair, or enlarge the school belonging to such endowment, or the residence of the master or mistress thereof, or to furnish such school, and shall in writing assent to the said school being open to inspection on behalf of her Majesty and her successors, if the said committee shall deem fit to advise that any such grant shall be made, it shall, immediately after the making of such grant, and thenceforth from time to time, be lawful for any inspector of schools appointed by her Majesty and her successors, in conformity with the terms contained in the writing testifying such consent as aforesaid, to enter the said school at all reasonable hours in the day, for the purpose of inspecting and examining the state and condition of the school and the scholars thereat, and of making such report thereon as he shall deem fit.

III. And whereas by an act passed in the fifth year of the reign of her present Majesty, intituled "An act to afford further facilities for the conveyance and endowment of sites for schools," it is enacted, that any person being seised in fee simple, fee tail, or for life, of and in any manor, or lands of freehold, copyhold, or customary tenure, may grant, convey, or enfranchise, and subject to the provisions therein mentioned, any quantity not exceeding one acre of land as a site for a school or otherwise, as therein likewise specified ; and it is desirable to prevent any such grant, being of so limited an interest, from being defeated by the death of the grantor ; be it enacted, that where any deed shall have been or shall

Death of
donor
within
twelve
calendar
months,
not to
avoid
grant.
9 Geo. 2,
c. 36.

be executed under the powers and for the purposes contained in the said act, without any valuable consideration, the same shall be and continue valid, if otherwise lawful, although the donor or grantor shall die within twelve calendar months from the execution thereof.

Site may
be granted
to the
minister
and
church-
wardens.

IV. And whereas it was provided by the said act that grants of land or buildings, or any interest therein, for the purposes of the said education of poor persons, might be made to the minister of any parish, being a corporation, and the churchwardens or chapelwardens and overseers of the poor and their successors, and it is sometimes found inexpedient or impracticable to introduce the overseers as parties to the legal estate; be it therefore enacted, that such grants may be made to the minister and churchwardens of any parish, such minister being the rector, vicar, or perpetual curate thereof, whether endowed or not, to hold to them and their successors, subject to the provisions contained in the deed of conveyance thereof for the management, direction, and inspection of the school and premises.

Rector,
vicar, or
perpetual
curate may
grant to
the minis-
ter and
church-
wardens,
or to the
minister,
church-
wardens,
and over-
seers of
his parish.

V. And be it enacted, that if the rector, vicar, or perpetual curate of any parish shall be desirous of making a grant of any land for the purposes and under the powers of the said act, being part of the glebe or other possessions of his benefice, and shall, with the consent of the patron of the said benefice, and of the bishop of the diocese within which the same shall be situated, grant the same to the minister and church or chapel wardens, or to the minister, church or chapel wardens, and overseers of the poor of the said parish, such grant shall be valid, and shall thenceforth endure for the purposes of the trust set forth therein, if otherwise lawful, notwithstanding such minister is the party making the grant.

Act may
be altered
this ses-
sion.

VI. And be it enacted, that this act may be altered by any other act in this session of parliament.

7 & 8 VICTORIA, cap. 59.

An Act for better regulating the Offices of Lecturers and Parish Clerks.

WHEREAS in divers districts, parishes, and places there now are or hereafter may be certain lecturers or preachers in the holy orders of deacon or priest of the United Church of England and Ireland, elected or otherwise appointed to deliver or preach lectures or sermons only, without the obligation of performing other clerical or ministerial duties: And whereas it is expedient in many cases that such lecturers or preachers should be authorized and required to perform other clerical and ministerial duties, and to act, if necessary, as assistant curates, in such districts, parishes, or places: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present parliament assembled, and by the authority of the same, that from and after the passing of this act it shall be lawful for the bishop of the diocese wherein any such lecturers or preachers shall be so elected or appointed as aforesaid, if he shall think fit, with the assent of the incumbent of every such district, parish, or place, to require, by writing under his hand and seal, any such lecturer or preacher to undertake and perform such other clerical or ministerial duties, as assistant curate or otherwise, within such district, parish, or place, as the said bishop, with the assent of such incumbent as aforesaid, shall think proper, and also to vary from time to time, if necessary, and with the like assent, the particular duties so required to be performed as aforesaid; and in case such lecturer or preacher shall at any time refuse or neglect duly and faithfully to perform such additional duties, and to act in the manner required by the said bishop as aforesaid, it shall be lawful for the said bishop to summon the said lecturer or preacher to appear before him, and thereupon the said bishop, with the assistance of one at least of the archdeacons and also of the chancellor of such diocese,

Lecturers
or preach-
ers may be
required
to perform
other cleri-
cal duties
in certain
cases.

shall proceed summarily to inquire into the facts of the case, and to adjudicate thereon, and, if necessary, to suspend or remove the said lecturer or preacher from his said office, and to declare the same vacant; but nevertheless such lecturer or preacher may, within fourteen days next after the passing or making of any such sentence or declaration, appeal therefrom to the archbishop of the province, who shall thereupon forthwith summarily hear and determine the same; and if no such appeal be made within the time aforesaid, or if the said sentence or declaration shall upon such appeal be affirmed by the said archbishop, the said bishop shall then cause the same to be forthwith duly published in the church or chapel, wherein the said lecturer or preacher hath been used to deliver or preach his said lectures or sermons by virtue of his said office, and thereupon the said office shall be and be deemed to be vacant, and the parties entitled to elect or appoint a person to the same shall be entitled and required to elect or appoint a successor thereto, in the same manner as if the said lecturer or preacher were dead, and the right and interest of such lecturer or preacher to and in the said office, and to and in all the emoluments and advantages thereof, shall wholly cease and determine; provided that nothing herein contained shall affect or be deemed applicable to any lecturer or preacher who shall have been elected or appointed to his said office before the passing of this act, unless such lecturer or preacher shall consent to be bound thereby.

Saving the rights of present holders.

Power to appoint persons in holy orders to the office of church clerk, and to require such persons to act as assistant curates, if necessary.

II. And be it enacted, that when and so often after the passing of this act as any vacancy shall occur in the office of church clerk, chapel clerk, or parish clerk, in any district, parish, or place, it shall be lawful for the rector or other incumbent or other the person or persons entitled for the time being to appoint or elect such church clerk, chapel clerk, or parish clerk as aforesaid, if he shall think fit, to appoint or elect a person in the holy orders of deacon or priest of the United Church of England and Ireland to fill the said office of church clerk, chapel clerk, or parish clerk; and such person so appointed or elected, as aforesaid, shall, when duly licensed as hereinafter provided, be entitled to have and receive all the profits and emoluments of and belonging to the said office, and shall also be liable in

respect thereof, so long as he shall hold the same, to perform all such spiritual and ecclesiastical duties within such district, parish, or place as the said rector or other incumbent, with the sanction of the bishop of the diocese, may from time to time require; but such person in holy orders so appointed or elected as aforesaid shall not by reason of such appointment or election have or acquire any freehold or absolute right to or interest in the said office of church clerk, chapel clerk, or parish clerk, or to or in any of the profits or emoluments thereof, but every such person in holy orders so appointed or elected as aforesaid shall at all times be liable to be suspended or removed from the said office, in the same manner and by the same authority, and for such or the like causes, as those whereby any stipendiary curate may be lawfully suspended or removed; such suspension or removal nevertheless being subject to the same power of appeal to the archbishop of the province to which any stipendiary curate is or may be entitled.

III. Provided always, and be it enacted, that every such appointment or election as last aforesaid, if made by any other person or persons than the rector or other incumbent of such district, parish, or place, shall be subject to the consent and approval of such rector or other incumbent of such district, parish, or place; and that no person in holy orders so appointed or elected as aforesaid shall be competent to perform any of the duties of his said office, or any other spiritual or ecclesiastical duties, within such district, parish, or place, or to receive or take any of the profits or emoluments of his said office, unless and until he shall have duly obtained from the bishop of the diocese within which such district, parish, or place is situate such licence and authority in that behalf as are required and usual in respect of stipendiary curates; but nevertheless such licence and authority, when so obtained as aforesaid, shall entitle the person so obtaining it to hold the said office, and to receive and take the profits and emoluments thereof as aforesaid, until he shall have resigned the same, or have been so suspended or removed as aforesaid, without any annual or other re-appointment or re-election thereto.

Such person to be licensed by the bishop, and when appointed otherwise than by the bishop to be subject to the approval of the incumbent.

IV. Provided also, and be it enacted, that no rector or Appoint.

ments of assistant clergy under this act not to exempt incumbents from the duty of providing curates in cases where they are now liable.

other incumbent of any district, parish, or place wherein any such person or persons shall be so employed as aforesaid, or wherein any lecturer or preacher shall have been required to undertake and perform other clerical and ministerial duties, in the manner hereinbefore provided, or wherein any person in holy orders shall have been appointed or elected to fill the office of church clerk, chapel clerk, or parish clerk as aforesaid, shall by reason of any such provisions be exempt from any duty or obligation of employing within the same district, parish, or place any curate or other assistant to which by any law, statute, canon, or usage he is or may be already liable; but it shall be lawful for the bishop of the diocese from time to time to require every such rector or other incumbent to provide, or for the said bishop to nominate and license, such other curates and assistants to officiate within every such district, parish, or place, in addition, either to the person or persons so intended to be employed as aforesaid, or to such lecturer or preacher, or to such church clerk, chapel clerk, or parish clerk, and to make regulations for the payment of the stipends of such other curates and assistants, as fully and in the same manner and subject to the same restrictions as he might have done by law if this act had not been passed.

Power to suspend or remove church clerks not in holy orders who may be guilty of neglect or misbehaviour.

V. And be it enacted, that if at any time it shall appear, upon complaint or otherwise, to any archdeacon or other ordinary that any person not in holy orders, holding or exercising the office of church clerk, chapel clerk, or parish clerk in any district, parish, or place within and subject to his jurisdiction, has been guilty of any wilful neglect of or misbehaviour in his said office, or that by reason of any misconduct he is an unfit and improper person to hold or exercise the same, it shall be lawful for such archdeacon or other ordinary forthwith to summon such church clerk, chapel clerk, or parish clerk to appear before him, and also by writing under his hand, or by such process as is commonly used in any of the courts ecclesiastical for procuring the attendance of witnesses, to call before him all such persons as may be competent to give evidence or information respecting any of the matters imputed to or charged against such church clerk, chapel clerk, or parish clerk, as aforesaid; and such arch-

deacon or other ordinary shall and may, if he see fit, examine upon oath, to be by him administered in that behalf, any of the persons so appearing or attending before him respecting any of the matters aforesaid, and shall and may thereupon summarily hear and determine the truth of the matters so imputed to or charged against such church clerk, chapel clerk, or parish clerk as aforesaid; and if upon such investigation it shall appear to the satisfaction of such archdeacon or other ordinary that the matters so imputed to or charged against such church clerk, chapel clerk, or parish clerk are true, it shall be lawful for the said archdeacon or other ordinary forthwith to suspend or remove such church clerk, chapel clerk, or parish clerk, from his said office, and by certificate under his hand and seal directed to the rector or other officiating minister of the parish, district, or place wherein such church clerk, chapel clerk, or parish clerk held or exercised his said office, to declare the said office vacant, and a copy of such certificate shall thereupon, by such rector or other officiating minister, be affixed to the principal door of the church or chapel in which the said church clerk, chapel clerk, or parish clerk usually exercised his said office; and the person or persons who upon the vacancy of such office are entitled to elect or appoint a person to fill the same, shall and may forthwith proceed to elect or appoint some other person to fill the same in the place of the said church clerk, chapel clerk, or parish clerk so removed as aforesaid: provided always, that the exercise of such office by a sufficient deputy who shall duly and faithfully perform the duties thereof, and in all respects well and properly demean himself, shall not be deemed a wilful neglect of his office on the part of such church clerk, chapel clerk, or parish clerk, so as to render him liable, for such cause alone, to be suspended or removed therefrom.

VI. And be it enacted, that in case any person, having Power to
 ceased to be employed in any of the offices or duties in this act mentioned or referred to, or having been duly suspended remove
 or removed from any such office or employment as aforesaid, person
 shall at any time refuse or neglect to give up the possession ceasing
 of any house, building, land, or premises, or any part or par- to be em-
 cel thereof, by him held or occupied by virtue or in respect ployed as
 in this act mentioned
 from pre-
 mises held

by him in right of his employment. of any such office or employment as aforesaid, it shall be lawful for the bishop of the diocese, upon complaint thereof to him made, to summon such person forthwith personally to appear before him, and to show cause for such refusal or neglect; and upon the failure of the person so summoned as aforesaid to obey such summons, or, upon his appearance, to show to the said bishop such cause as may be deemed by the said bishop sufficient for such refusal or neglect, the said bishop shall thereupon grant a certificate of the facts aforesaid, under his hand and seal, to the person or persons entitled to the possession of such house, building, land, or premises as aforesaid, who may thereupon go before any neighbouring justice of the peace; and such justice, upon production of such certificate, and proof of such wrongful retention of possession as aforesaid, shall and he is hereby required to issue his warrant under his hand and seal, directed to the constables or other peace officers of the district, parish, or place within which such house, building, land, or premises is or are situate, or to the constables or other peace-officers of any neighbouring district, parish, or place, requiring them forthwith to expel and remove from the said house, building, land, or premises, and from every part and parcel thereof, the person so wrongfully retaining possession thereof, and to deliver the peaceable possession thereof to the person or persons so entitled to the same as aforesaid; and such constables or other peace-officers shall, and they are hereby required promptly and effectually to obey and execute such warrant, according to the exigency thereof, and thereupon it shall be lawful for them also to levy, upon the goods and chattels of the person so by them expelled and removed as aforesaid, the necessary costs and expenses of executing such warrant, the amount whereof, in case the same shall be disputed, shall be forthwith settled and determined by the said justice of the peace by whom the said warrant was so issued as aforesaid, or by any other justice of the peace residing in or near to the said district, parish or place, whose decision thereupon shall be final, and who is hereby authorized to make such order in that behalf as to him shall seem reasonable.

12 & 13 VICTORIA, cap. 49.

An Act to extend and explain the Provisions of the Acts for the granting of Sites for Schools.

WHEREAS by an act passed in the fifth year of the reign of her Majesty provisions are made for facilitating the erection of schools and buildings for the education of poor persons, which said act hath been since explained and extended by an act of the eighth year of the reign of her Majesty ; and it is expedient that further facilities should be afforded for the conveyance of lands for sites for schools in cases where such lands are comprised with other lands in leases, and that some amendments should also be made in the said acts : be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present parliament assembled, and by the authority of the same, that if part only of any lands comprised in a lease for a term of years unexpired shall be conveyed or agreed to be conveyed for the purposes of the said firstly hereinbefore mentioned act, the rent payable in respect of the lands comprised in such lease, and any fine certain or fixed sum of money to be paid upon any renewals thereof, or either of such payments, may be apportioned between the part of the said lands so conveyed or agreed to be conveyed and the residue thereof ; and such apportionment may be settled by agreement between the parties following, that is to say, the lessor or other the owner subject to such lease of the lands comprised therein, the lessee or other the party entitled thereto by virtue of such lease or any assignment thereof for the residue of the term thereby created, and the party to whom such conveyance as afore-said for the purposes of the said firstly hereinbefore mentioned act is made or agreed to be made ; and when such apportionment shall so be made it shall be binding on all under-lessees and other persons and corporations whatsoever, whether parties to the said agreement or not.

II. And be it enacted, that in case of any such apportion- Liabilities

of tenants, and remedies of landlords, as to the lands not conveyed. ment as aforesaid, and after the lands so conveyed or agreed to be conveyed as aforesaid shall have been conveyed, the lessee, and all parties entitled under him to the lands comprised in the lease not included in such conveyance, shall, as to all future accruing rent, and of all future fines certain or fixed sums of money, to be paid upon renewals, be liable only to so much of the rent and of such fines or sums of money as shall be apportioned in respect of such last-mentioned lands ; and the party entitled to the rent reserved by the lease shall have all the same rights and remedies for the recovery of such portion of the rent as last aforesaid as previously to such apportionment he had for the recovery of the whole rent reserved by such lease ; and all the covenants, conditions, and agreements of such lease, except as to the amount of rent to be paid, and of fines or sums of money to be paid upon renewals, in case of any apportionment of the same respectively, shall remain in force with regard to that part of the land comprised in the lease which shall not be so conveyed as aforesaid, in the same manner as they would have done in case such part only of the land had been included in the lease.

The same person may grant several sites for schools in the same parish if the whole extent do not exceed certain limits.
4 & 5 Vict.
c. 38, s. 9.

III. And whereas by the said first-recited act power is given to any person or corporation to grant any number of sites for distinct and separate schools ; but after providing that the site of each school and residence do not exceed one acre, it is also provided that not more than one such site shall be in the same parish ; and doubts have been entertained as to the meaning of this last-recited proviso: be it therefore declared and enacted, that nothing in the said act contained shall prevent any person or corporation from granting any number of sites for separate and distinct schools in the same parish, provided the aggregate quantity of land granted by such person in the same parish shall not exceed the extent of one acre.

Grants of land for sites of schools by owners or tenants in tail to be valid,

IV. And whereas it would be expedient that the absolute owners of land and tenants in tail in possession should have the power of granting land to a limited extent for the purpose of erecting sites for schools to be applied and used in and for the education and instruction of persons intended to be masters or mistresses of elementary schools for poor persons,

without any risk of such grant being defeated by the death of the grantor: Be it therefore enacted, that it shall be lawful for all persons, being such absolute owners or tenants in tail in possession as aforesaid, to grant, convey, or enfranchise, by way of gift, sale, or exchange, any quantity of land, not exceeding in the whole five acres, to any corporation sole or aggregate, or to several corporations sole, or to any trustees whatsoever, to be held, applied, and used by such corporation or corporations or trustees in and for the erection of school buildings and premises thereon for the purpose of educating and instructing, and of boarding during the time of such education and instruction, persons intended to be masters or mistresses of elementary schools for poor persons, and for the residence of the principal or master or mistress and other officers of such institution; and such gift, sale or exchange shall be and continue valid, if otherwise lawful, although the donor or grantor shall die within twelve calendar months from the execution thereof: Provided always, that it shall be lawful for the trustees of such school buildings and premises to allow the same to be applied and used, concurrently with the education and instruction of such masters or mistresses, for the purpose of boarding other persons, and of educating and instructing the said persons in religious and useful knowledge.

V. And whereas the absolute owners of land may grant, subject to the regulations and provisions prescribed by the statutes in such behalf, any quantity of such land to trustees to be held upon charitable purposes; and it would be beneficial that they should be authorized to exercise such power in respect of lands granted for the sites or for the endowment of the last-mentioned schools, or of schools for poor persons, by vesting the same so as to secure it permanently for the purpose of the trust, without the necessity of subsequent renewals of the deeds of trust: Be it therefore enacted that where any such person shall be lawfully entitled to convey an estate in land to trustees, to hold the same upon any charitable use, and shall be desirous of conveying the same for the purposes of the acts hereinbefore referred to, or this act, or for the endowment of such schools, such person may grant and convey the same to any corporation or corporations

although
grantor
die within
twelve
months.

The owners
of land em-
powered
to vest any
quantity
of land for
purposes of
these acts
in corpora-
tions.

as aforesaid, to be held in trust for such purposes, whatever may be the quantity of land or extent of the estate so to be granted and conveyed.

Mode of conveying the lord's interest and that of the copyholder in copyhold land.

VI. And be it enacted, that where land of copyhold or customary tenure shall have been or shall be granted for the purposes of the said acts, the conveyance of the same by any deed wherein the copyholder shall grant and convey his interest, and the lord shall also grant his interest, shall be deemed to be valid and sufficient to vest the freehold interest in the grantee or grantees thereof without any surrender or admittance or enrolment in the lord's court.

Interpretation clause.

VII. And be it enacted, that except in cases where there shall be something in the subject or context repugnant to such construction, words occurring in this act and the above-recited acts importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; and words importing the masculine gender only shall include females; and the word "land" shall include messuages, houses, lands, tenements, hereditaments, and heritages of every tenure; and the word "lease" shall include an under-lease, agreement for a lease, and missive of lease; and the word "owner" shall include any person or corporation enabled under the provisions of the said firstly hereinbefore mentioned act to convey lands for the purposes thereof.

Act may be amended, &c.

VIII. And be it enacted, that this act may be amended or repealed by any act to be passed in this present session of parliament.

13 & 14 VICTORIA, cap. 98.

An Act to amend the Law relating to the holding of Benefices in Plurality.

WHEREAS an act was passed in the session of parliament held in the first and second years of the reign of her present Majesty, intituled an act to abridge the holding of benefices in plurality, and to make better provision for the residence of the clergy; and it is by the said act provided, that no

1 & 2 Vict.
c. 106.

spiritual person shall hold together any two benefices, if, at the time of his admission, institution, or being licensed to the second benefice, the value of the two benefices jointly shall exceed the yearly value of one thousand pounds, and that the said benefices shall be within the distance of ten statute miles the one from the other, and that the population of the said benefices shall not exceed a certain amount, as provided by the said act : and where it is desirable further to restrain spiritual persons from holding benefices in plurality : Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present parliament assembled, and by the authority of the same, that, notwithstanding any provision in the said recited act contained, it shall not be lawful, after the passing of this act, for any spiritual person to take and hold together any two benefices, except in the case of two benefices the churches of which are within three miles of one another by the nearest road, and the annual value of one of which does not exceed one hundred pounds.

Spiritual persons not to hold benefices in plurality except under certain circumstances.

II. And be it enacted, that, notwithstanding any provision in the said recited act contained, it shall be lawful for any spiritual person to hold together two benefices according to the provision hereinbefore contained, whatever may be the yearly value of two such benefices jointly, but this enactment shall not extend to repeal or affect any provision of the said act whereby any restraint on the holding of benefices in plurality is imposed in respect of or with reference to the amount of the population of any benefice, or to repeal or affect the provisions of the said act concerning the licence or dispensation required for the holding together of any two benefices.

Spiritual persons may hold two benefices, subject to provisions of this act.

III. And be it enacted, that the term "benefice" in this act shall be taken to mean benefice with the cure of souls, and no other, and therein to comprehend all parishes, perpetual curacies, donatives, endowed public chapels, parochial chapelries, and chapelries or districts belonging or reputed to belong, or annexed, or reputed to be annexed, to any church or chapel, any thing in any other act to the contrary notwithstanding.

Explanation of term "benefice."

To estimate value of benefice.

IV. And be it enacted, that for the purpose of estimating the annual value of such benefice there shall be considered as deducted from the gross amount of the annual value all taxes, rates, tenths, dues, and permanent charges and outgoings, but not to deduct or allow for any stipend or stipends to any stipendiary curate or curates, nor for such taxes or rates in respect of the house of residence of any benefice, or of the glebe land belonging thereto, as are usually paid by tenants or occupiers, nor for monies expended in the repair or improvement of the house of residence and buildings and premises belonging thereto.

Deans of cathedrals not to hold office of heads of colleges or halls in the universities.

V. And be it enacted, that it shall not be lawful for any person appointed after the passing of this act to the deanery of any cathedral church to hold the office of head ruler of any college or hall within either of the universities of Oxford or Cambridge, or the office of provost of Eton College, or of warden of Winchester College, or of master of the Charter House, together with his deanery: provided always, that nothing herein contained shall apply to the dean of the cathedral church of Christ in Oxford as chief ruler of the college there maintained.

Heads of colleges in the universities also holding a benefice not to take any cathedral preferment; nor if holding a cathedral preferment not to take a benefice.

VI. And be it enacted, that (any thing in the said recited act to the contrary notwithstanding) it shall not be lawful for any spiritual person, being head ruler of any college or hall within either of the universities of Oxford or Cambridge, or being warden of the university of Durham, and also holding any benefice, to take after the passing of this act and hold therewith any cathedral preferment or any other benefice, or for any such spiritual person, also holding any cathedral preferment, to take after the passing of this act and hold therewith any benefice: provided always, that nothing in this act contained shall be construed to prevent any such spiritual person from holding any benefices or cathedral preferment permanently attached to or forming part of the endowment of his office.

Presentation of the same person to two benefices to be void.

VII. And be it enacted, that if any spiritual person holding any benefice or benefices shall accept any other benefice, and shall be admitted, instituted, or licensed thereto, contrary to the provisions of this act, every such benefice or benefices which he previously held shall become *ipso facto* void as if

he had died or resigned the same, any law, statute, canon, usage, custom, faculty, or dispensation whatsoever to the contrary notwithstanding.

VIII. And whereas in the said recited act a provision is contained authorizing the union by order of her Majesty in council after such inquiry and notice, and with such consent and upon such certificate as therein mentioned, of two or more benefices, or of one or more benefice or benefices, and one or more spiritual sinecure rectory or rectories, vicarage or vicarages, in the same parish, or contiguous to each other, of which the aggregate population shall not exceed one thousand five hundred persons, and the aggregate yearly value shall not exceed five hundred pounds: be it enacted, that the said provision of the said act shall extend and be applicable to and for the union of two or more benefices, or one or more benefice or benefices, and one or more spiritual sinecure rectory or rectories, vicarage or vicarages, in the same parish or contiguous to each other, and of which the aggregate population shall not exceed one thousand five hundred persons, notwithstanding the aggregate yearly value shall exceed five hundred pounds, in like manner and with the like preliminaries and consequences as if the words "and the aggregate yearly value shall not exceed five hundred pounds," had not been inserted in the provision lastly hereinbefore referred to: provided always, that it shall be lawful for the bishop to direct that there shall be two full services in each church of such consolidated livings.

IX. And be it enacted, that nothing hereinbefore contained shall be construed to prejudice or affect the right of possession in any preferment or benefice to which any spiritual person shall have been admitted, instituted, or licensed, or which shall have been otherwise granted to any spiritual person, before the passing of this act.

X. Provided always, and be it enacted, that nothing hereinbefore contained shall be construed to prevent any spiritual person possessed of one or more than one benefice on the fourteenth day of August one thousand eight hundred and thirty-eight, and to whom or in trust for whom the advowson of or the next presentation or nomination to any other benefice has been conveyed, granted, or devised by

Her Majesty in council may authorize union of benefices in certain cases.

Not to affect the right of possession in any preferment in a certain case.

As to a benefice possessed before 14th Aug., 1838, &c.

any deed or will made before the twenty-third day of December one thousand eight hundred and thirty-seven, from taking the said last-mentioned benefice, and holding together such benefice and any one such first-mentioned benefice.

Extending provisions of act 4 & 5 Vict. c. 39, as to holding benefices with honorary canonries, &c.

XI. And be it enacted, that the provisions of an act passed in the session of parliament held in the fourth and fifth years of her Majesty's reign, intituled, "An act to explain and amend two several acts relating to the Ecclesiastical Commissioners for England," which authorize the holding of more benefices than one with an honorary canonry, or with any prebend, dignity, or office not then in any manner endowed, or whereof the endowments shall have been vested in the Ecclesiastical Commissioners for England, or which might thereafter be endowed to an amount not exceeding twenty pounds by the year, shall be extended so as to authorize the holding of one benefice and one cathedral preferment in the same church with such honorary canonry, prebend, dignity or office.

Previous provisions not to extend to Ireland. Dispensations for the same person to hold two livings in Ireland not to be granted.

XII. And be it enacted, that nothing hereinbefore contained shall be construed to extend to that part of the United Kingdom called Ireland.

XIII. And whereas no faculty or dispensation has been granted for the holding of two or more benefices in that part of the United Kingdom called Ireland for upwards of twenty years last past, and it is expedient to prevent the future grant thereof: be it therefore enacted, that no faculty or dispensation shall be granted to any spiritual person to hold two or more benefices in Ireland: and that if any spiritual person, holding or taking any benefice in Ireland, shall take or accept of any other benefice to the holding whereof together with the benefice so previously held a faculty or dispensation would before the passing of this act have been necessary, and shall be admitted, licensed, or instituted to the same, every benefice so previously held by such spiritual person shall be and become *ipso facto* void as if he had died or had resigned the same, any law, statute, canon, or usage to the contrary notwithstanding; provided, however, that nothing herein contained shall be deemed, construed, or taken to affect or alter the laws now in force in Ireland regulating and respecting the unions or divisions of parishes.

XIV. And be it enacted, that this act may be amended or repealed by any act to be passed in this present session of parliament. Act may be amended, &c.

17 & 18 VICTORIA, cap. 84.

An Act to extend the Provisions of the Acts for the Augmentation of Benefices.

WHEREAS an act was passed in the twenty-ninth year of the reign of his late Majesty King Charles the Second, intituled, "An act for confirming and perpetuating augmentations made by ecclesiastical persons to small vicarages and curacies," the provisions of which were extended by an act passed in the session of parliament held in the first and second years of the reign of his late Majesty King William the Fourth, chapter forty-five: and whereas the powers of the said last-mentioned act were enlarged by the fourteenth section of an act passed in the session of parliament held in the first and second years of the reign of her present Majesty, chapter one hundred and seven: and whereas it is expedient that the provisions and powers of the said acts should be amended and enlarged: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

I. The powers which by the twenty-first section of the said act of the first and second of William the Fourth, and the fourteenth section of the said act of the first and second of Victoria, are given to rectors or vicars of making annexations or grants in aid of churches and chapels may be exercised by the incumbent of any benefice whatsoever within the meaning of the said act of the first and second of William the Fourth, and may be so exercised although part only of the district chapelry or place to which the church or chapel belongs may be within the limits of such benefice, and whether such church or chapel may be within the limits of such benefice or not. Powers given by s. 21 of 1 & 2 Wm. 4, c. 45, and s. 14 of 1 & 2 Vict. c. 107 may be exercised by incumbents, &c.

Incumbent
entitled to
glebe land,
&c., may
annex the
same to
church of
district
wherein
situate.

II. Where the incumbent of any benefice shall, in right of the same, be entitled to any glebe land or other land, it shall be lawful for the incumbent for the time being of such benefice, with such consents as hereinafter mentioned, by a deed duly executed by him, to annex such glebe land or other land as aforesaid, or any part thereof, with the appurtenances, to any church or chapel within the parish, district, or place in which such glebe land or other land as aforesaid shall be situate, to the intent that the same may be held and enjoyed by the incumbent for the time being of such church or chapel; and every such deed shall be effectual to all intents and purposes whatsoever, any law or statute to the contrary notwithstanding.

Consents
of arch-
bishop or
bishop and
patron to
annexation
and grant.

III. Every annexation and grant which shall be made by the incumbent of any benefice in pursuance of any power hereinbefore contained shall be made with the consent of the archbishop or bishop of the diocese within which such benefice shall be situate, and also with the consent of the patron or patrons of such benefice, such consent to be signified by the said archbishop or bishop and the said patron or patrons respectively executing the instrument by which the annexation or grant shall be made.

Section 13
of 1 & 2
Wm. 4. c.
45 to ex-
tend to
annexa-
tions under
this act.

IV. In every case in which any land subject to any lease shall be annexed to any church or chapel, in pursuance of the power hereinbefore in that behalf contained, the provisions of the thirteenth section of the said act of the first and second years of King William the Fourth, chapter forty-five, shall apply to such land in the same manner as if such provisions were herein expressly set forth; and in every case in which any rectory impropriate, tithes or portion of tithes, lands, tenements, or other hereditaments, have been or shall be annexed to any church or chapel, in pursuance of any power contained in the said act of the first and second years of King William the Fourth, chapter forty-five, or in this act, and the premises so annexed shall be comprised together with other hereditaments in any lease, the incumbent for the time being of the said church or chapel shall as to the premises so annexed, and the person, corporation, or body politic by whom such annexation shall have been made, and his or their successors and assigns,

shall as to the said other hereditaments, have the same rights and remedies for enforcing payment of the proportion of rent payable to them respectively, and otherwise have the same rights and remedies under and by virtue of the covenants, provisos, and agreements contained in the said lease as if the said premises so annexed or the said other hereditaments, as the case may be, were the only hereditaments comprised in the said lease.

V. Where any rent or annual sum of money granted, reserved, or made payable, or to be granted, reserved, or made payable, under any of the powers of the said hereinbefore mentioned acts or of this act, to the incumbent of any church or chapel, is or shall be granted, reserved, or made payable out of or charged upon any rectory inappropriate, tithes, annual revenues, lands, tenements, or other hereditaments, it shall be lawful for the incumbent for the time being of the said church or chapel, by a deed duly executed by him, to release any such rectory inappropriate, or any of the said tithes or annual revenues, lands, tenements, or other hereditaments respectively, or any part thereof respectively, from the said rent or annual sum, and the premises so released shall be thenceforth wholly discharged from the said rent or annual sum, and from all remedies for recovering and compelling payment thereof, but without in anywise discharging therefrom respectively any rectory inappropriate, tithes, and revenues, lands, tenements, or hereditaments, theretofore charged with the said rent or annual sum, and not by the said deed expressed to be released, or the person or persons, corporation or body politic, for the time being liable for the payment of the said rent or annual sum: provided always, that every such release shall be made with the consent of the archbishop or bishop of the diocese within which the said church or chapel shall be situate, and also with the consent of the patron or patrons of the said church or chapel, such consents to be signified by the archbishop or bishop and the said patron or patrons respectively executing the instrument by which the release shall be made: provided also, that no consent of any archbishop or bishop shall be given to any such release as aforesaid unless some rectory inappropriate, Rectories inappropriate, tithes, &c., may be released from rent-charges, with the consent of archbishop, &c.

tithes, or other revenues, lands, tenements, or other hereditaments, theretofore charged with the said rent or annual sum, shall remain unreleased, and be proved to the satisfaction of the said archbishop or bishop to be a competent security for the same, and be expressed to be so proved in the instrument by which such consent shall be signified.

Who shall be deemed the patron to consent.

VI. In every case in which the consent of the patron or patrons of the benefice or of any church or chapel is required by any of the hereinbefore mentioned acts or by this act to the exercise of any of the said powers given by the hereinbefore mentioned acts or any of them, or by this act, and the person or persons or body to consent as such patron or patrons is not by the said act of the first and second years of King William the Fourth, chapter forty-five, defined, the person or persons or body who, if the said benefice or church or chapel were then vacant, would be entitled to present or nominate or to collate thereto, shall be deemed the patron or patrons whose consent is so required.

Act to be construed as though contained in 1 & 2 Wm. 4, c. 45.

VII. The provisions of this act shall be read as part of the said act of the first and second of William the Fourth, and be construed in the same manner as if they had been contained in that act, and as if the provisions of that act were here repeated, with such alterations as to adapt the same to the cases provided for by this act.

As to apportionment of income where two benefices belong to the same patron.

VIII. Whereas by the seventy-fourth section of the statute of the third and fourth years of the reign of her Majesty, chapter one hundred and thirteen, it was provided that arrangements might be made in the manner therein mentioned for the apportionment of the income of two benefices belonging to the same patron between the incumbents or ministers of such benefices, or the churches or chapels connected therewith: be it enacted, that the provisions of the last-mentioned act in that behalf shall apply to any lands, tithes, tithe rent-charges, or other hereditaments or sources of income, of what nature or kind soever, belonging to such benefices, and shall apply to any number of benefices belonging to the same patron, including any united benefice, and that every church or chapel possessed of any endowment, or capable of receiving the same, and also any sinecure rectory, so far as regards the transfer of its en-

dowments or any portion thereof to any benefice, shall be deemed a benefice for the purpose of such arrangements or any of them.

18 & 19 VICTORIA, cap. 127.

An Act to make better Provision for the Union of contiguous Benefices, and to facilitate the building and endowing of new Churches in spiritually destitute Districts.

WHEREAS an act was passed in the second year of her Majesty's reign, intituled, "An act to abridge the holding of 1 & 2 Vict. benefices in plurality, and to make better provision for the residence of the clergy;" and in such act provision is contained authorizing the union, by order of her Majesty in council, after such inquiry and notice, and with such consent and upon such certificate as is therein mentioned, of two or more benefices, or one or more benefice or benefices, and one or more spiritual sinecure rectory or rectories, vicarage or vicarages, in the same parish or contiguous to each other, of which the aggregate population should not exceed one thousand five hundred persons, and the aggregate yearly value should not exceed five hundred pounds: and whereas another act was passed in the fourteenth year of her Majesty's reign, intituled, "An act to amend the law relating to the holding of benefices in plurality," by which 13 & 14 Vict. c. 98. act the provision hereinbefore referred to was extended so as to be applicable to and for the union of benefices, sinecure rectories, and vicarages in the same parishes or contiguous to each other, and of which the aggregate population should not exceed one thousand five hundred persons, notwithstanding the aggregate yearly value should exceed five hundred pounds: and whereas it is expedient to amend the said recited acts, and further to extend the same, so as to make better provision for the union of contiguous benefices in cases where such union may be advantageous to the interests of religion: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this

present parliament assembled, and by the authority of the same, as follows :

Contiguous benefices may be united under this act, without regard to the aggregate population or yearly value.

On representation of inhabitants of any two or more parishes that their benefices might be advantageously united, the bishop shall inquire into the same.

I. Under the provisions of this act, it shall and may be lawful to unite two or more benefices, or one or more benefice or benefices, and one or more spiritual sinecure rectory or rectories, vicarage or vicarages, contiguous to each other, without regard to aggregate population or aggregate yearly value, and without any limitation as to the same, and that the union of such benefices shall and may be effected in the manner hereinafter provided.

II. Whenever it shall be represented in writing to the bishop of the diocese by the inhabitants of any two or more such parishes in vestry assembled, or the major part of them respectively, due notice of the representation proposed to be made having been given in the usual manner, that the benefices of the parishes of which they are inhabitants may, with advantage to the interests of religion, be united, the bishop of the diocese to whom such representation in writing may be made shall inquire into the circumstances of the case ; and if on such inquiry it shall appear to such bishop that such union may usefully be made, and that the patron or patrons of the benefices, rectories, or vicarages proposed to be united are consenting thereto, such consent being signified in writing under the hands of such patron or patrons, or that the patronage of any new church or churches proposed to be erected under this act is to be vested in such patron or patrons as hereinafter is provided, the said bishop shall cause a statement in writing of the facts, certified and signed by himself, to be submitted to her Majesty's commissioners for building new churches, and the said commissioners shall institute inquiry, and, if they see fit, may propose a scheme for the union of such benefices, and for the other purposes of this act ; and her Majesty's said commissioners shall and may for the purposes of this act exercise such powers and privileges as they now exercise or claim to exercise for the purchase of sites, the erection of new churches, and other objects within the commission of the said commissioners, to the full extent as such powers and privileges are now exercised or claimed to be exercised by the said commissioners.

III. Whenever it shall appear to the commissioners for Church building new churches, upon inquiry into the circumstances of the case, that the total revenue of any benefices proposed to be united would be more than sufficient for the due maintenance and support of the incumbent of the benefice when united, and of such curate or curates as may be needed for the same, and that the whole or some specified part or parts of the glebe lands, houses, tithes, tenements, or hereditaments, or other permanent endowments in lieu of tithes, belonging to the benefice or benefices proposed to be united, or any of them, might with advantage to the interests of religion be made subject to a certain annual rent-charge in perpetuity in favour of some other specified benefice having no provision or competent provision belonging thereto, as an endowment, or a further endowment for the same, the church building commissioners, with the consent of the patron or patrons of the benefices proposed to be united, may entertain or propose a scheme or plan for such rent-charge or transfer and annexation: provided always, that the consents of such patrons shall be signified in writing, and that in any case where the patronage of any such benefice may be vested in any individual not wholly entitled to dispose of the same, the consent of the next heir, being of full age, to the right of such patronage, shall also be signified in writing.

IV. The church building commissioners, so soon as they shall have prepared a scheme for the purpose of more effectively carrying out the proposed union of benefices, or a scheme for the transfer of surplus revenues, shall seal the same with their seal, and shall cause to be affixed on or near to the principal outer door of the church or churches of the parishes proposed to be united, and in the usual place of notice in the said parishes, a copy or copies of such scheme, and shall deliver copies of the same to the bishop of the diocese, and to the patrons, ministers, churchwardens, overseers, and vestry clerks of the benefices proposed to be united, together with a notice to any person or persons interested, that they or any of them may within two months show cause to the said commissioners against the proposed union of benefices, or the transfer of surplus revenues, or as to any part or parts of any scheme relating thereto; and if within such

Church building commissioners may propose scheme for transfer of surplus revenues to poor parishes.

Scheme to be posted on church doors, &c.

Parties interested may show cause against scheme.

If no sufficient cause shown, commissioners to certify to Queen in council.

period of two months no cause be shown, or if upon consideration of any objection the church building commissioners shall be of opinion that the cause shown is not sufficient, the said commissioners shall then certify the statement and certificate of the bishop as aforesaid, together with their scheme, to her Majesty in council, and thereupon it shall be lawful for her Majesty in council to make and issue any order or orders for uniting such benefices into one benefice with cure of souls for ecclesiastical purposes, and for such other purposes as are herein provided: provided always, that if any petition or statement is lodged by way of protest, or any appeal is made against the scheme or any part thereof, as hereinafter is provided, no such order or orders in council shall be made or issued until such petition or statement has been duly considered, or the parties to such appeal have been duly heard.

Proviso.

Protests against the scheme may be considered by judicial committee.

V. It shall and may be lawful for any person or persons interested, who may have been heard by the said commissioners against the proposed union of any benefices, or against subjecting the endowments or revenues thereof, or any part or parts of any scheme certified by them to her Majesty in council, to appeal to her Majesty in council against such scheme or any part thereof, in the usual manner, or such person or persons may, at their option, state in writing, by way of protest, his, her, or their objections to such union or any part or parts thereof, and the commissioners shall annex such written statement or protest to their certificate to the Queen in council, and her Majesty in council may order and direct that such objections shall be considered by the judicial committee of the privy council, and the said judicial committee shall make report to her Majesty in council thereupon, and may propose to her Majesty in council to affirm, vary, or dismiss the scheme certified by the commissioners, or to return the same to the said commissioners for alteration or amendment; and her Majesty in council may affirm, vary, or dismiss the scheme accordingly, or return the same to the commissioners to be reconsidered as to any parts thereof.

Queen in council may make orders

VI. It shall be lawful for her Majesty in council, by any order or orders affirming or approving any scheme of the commissioners, and directing a union of any parishes, or by

any other order or orders, to direct that such or such part of any lands, tithes, tenements, or hereditaments, or other permanent endowments of the benefices proposed to be united, shall be subject to such rent-charge, or excepted out of such benefice when united, and be transferred and annexed to such other specified benefice, and upon the order or orders directing such rent-charge or transfer and annexation coming into operation the lands, houses, tithes, tenements, or hereditaments, or other permanent endowments, so directed to be subject to such rent-charge, or to be transferred and annexed, shall, without any further deed, transfer, or other assurance, become and be for ever subject to such rent-charge or annexed to such benefice, as the case may be, and shall be held and enjoyed by the incumbent thereof for the time being as the endowment or a part of the endowment thereof, subject and without prejudice nevertheless, to all leases, grants, rents, charges, and incumbrances existing at the time of such rent-charge or transfer and annexation legally affecting the same, except so far as any such apportionment as aforesaid may affect the same respectively; and all such lands, houses, tithes, tenements, and hereditaments, or other permanent endowments, when so transferred or annexed as aforesaid, shall belong to and the same and the rents and profits thereof shall be recoverable by the incumbent of such benefice for the time being, in the same manner and by the same remedies as were applicable thereto before such transfer and annexation.

VII. The order or orders in council affirming any scheme, or directing any union of parishes, rent-charge, transfer, or annexation as aforesaid, shall, as soon as may be after the making thereof by her Majesty in council, be inserted and published in the "London Gazette," and shall be registered in the registry of the diocese, and the registrar of the diocese is hereby required to make such registry; and such order in council, so soon as the same shall have been gazetted, shall have full force and effect of law in all respects and as to all things therein contained, any law, statute, canon, grant, usage, or custom to the contrary, notwithstanding: provided always, that nothing in this act contained shall be construed to affect the rights and interests of any of the incumbents of benefices united under the provisions thereof who at the time of the

affirming
or approv-
ing any
scheme.

Orders in
council
to be ga-
zетted and
registered,
and to
have force
of law.

making such order in council were in possession respectively of such benefices, without the consent of such incumbent expressed in writing.

Commis-
sioners
may
propose
scheme for
erection of
new
church or
parsonage,
removal of
old church
or parson-
age, sale of
site, &c.,
for pur-
poses of
this act.

VIII. If for the purposes and objects of this act it shall be found necessary or desirable to provide for the erection of any new church or parsonage-house, for the pulling down or removal of any existing church or parsonage-house, in either of the benefices proposed to be united, for the sale of the materials or site of the same, for the appropriation of any plate or other property held in trust by the church-wardens of any church to be pulled down, for the disposal of any organ in such church, for the appropriation or re-appropriation of any pews or sittings in the church of the united benefice left standing, for the transfer of any lecture-ships, the sale of any parsonage-houses, with their appurtenances, for compensation to parish clerks or other officers, for arrangement with respect to fees or vestry-rooms, it shall and may be lawful for the church building commissioners to make proposals thereupon as part of their scheme and such proposals or any of them shall be subject to objection and protest as herein provided : provided nevertheless, that nothing in this act contained shall authorize the sale of any plate heretofore used for the purposes of the Holy Communion, but the same shall be transferred, with the consent of the bishop of the diocese, to the church of the united benefice, or if such plate be not needed for such church then to any other church or chapel or churches or chapels within the diocese which the said bishop may select.

No burial
ground, or
site of
church,
to be sold
under this
act.

IX. Nothing in this act contained shall be taken or construed to legalize the sale or letting of any burial-ground or churchyard, or of the site of any church to be pulled down, if there shall have been any interments or deposits in any grave or vault under the site of such church ; and if there shall be any tablets or monuments erected in such church, such tablets or monuments, if not removed by the legal representatives of the parties to whom the same were erected, shall be carefully removed, at the cost and charge of the parties removing the church, and shall be fixed by them in some convenient part of the church thereafter to be constituted the church of the united parishes.

Vaults and
tablets.

X. From and after the union of any two or more benefices under this act, the church left standing and remaining within such united benefice shall be the church of the united parishes, and all meetings of vestry for ecclesiastical purposes within such parishes shall be vestry meetings of the parishes united under this act; and the vestry-room of the church left standing within such united parishes shall be held to be the vestry-room of the united parishes for the use of the parishioners thereof, and also the vestry-room for secular purposes for the parishioners of each of the parishes forming the united parish, and for the care and preservation of the deeds, muniments, and records belonging to the same: provided always, that nothing in this act contained shall be taken or construed to interfere with any privileges or liberties whatsoever reserved to any parishes in the City of London by an act of the twenty-second year of his Majesty King Charles the Second, commonly called the City of London Fire Act.

XI. And whereas by the act of the session holden in the sixth and seventh years of her Majesty, chapter seventy-seven, it was enacted, that out of the proceeds of any lands, tithes, tenements, or other hereditaments in the principality of Wales, vested or to be vested in the Ecclesiastical Commissioners for England by or under the provisions of the said recited acts or that act, it should be lawful, by the authority therein mentioned, to make provision, in whole or in part, for the competent maintenance of any spiritual person or persons (being a native or natives of the principality aforesaid) who might be licensed by the bishop of the diocese for the time being to officiate in any church or chapel within London or Westminster or the suburbs thereof, duly consecrated for the performance of divine service according to the rites and ceremonies of the united Church of England and Ireland, in the Welsh language, and such bishop was thereby authorized to license any spiritual person or persons accordingly: it shall be lawful for the Bishop of London, if he sees fit, to appropriate for the performance of divine service in the Welsh language, so long as such provision shall continue to be made by the Ecclesiastical Commissioners for England, one of the churches within his diocese

Church and vestry of church left standing to be the church and vestry of united parishes.

Bishop of London may, under certain circumstances, appropriate for service in Welsh one of the churches in London otherwise to be pulled down.

which might under this act be pulled down: provided always, that before such appropriation sufficient provision shall be made to the satisfaction of the said bishop for the repairs, maintenance, and support of the fabric of the church, so long as such church remains so appropriated.

Bishop
may pre-
pare a
scheme for
transfer-
ence of lec-
tures from
churches to
be pulled
down.

XII. And whereas difficulties might arise in the case of endowed lectureships, when the lectures have been customarily preached in a church which may be taken down under the authority of this act: it shall therefore be lawful for the bishop of any diocese for the time being to prepare from time to time under his hand and seal a scheme or schemes for transferring such lectures to other churches, to be preached therein at such times as to the said bishop may appear convenient; and such scheme shall be submitted by the said bishop to the charity commissioners under the "Charitable Trusts Act, 1853," and such scheme, if approved of by them, or subject to such alterations therein as may appear to the said commissioners advisable, and as shall be approved of by the said bishop, shall be valid for effecting the purposes therein mentioned, and shall be registered in the registry of the diocese: provided nevertheless, that nothing in this act contained shall give the bishop any power respecting the appointment of a lecturer without the consent of the incumbent of the church in which such lecturer is to officiate.

Commis-
sioners
may re-
appro-
priate
pews of
churches
left stand-
ing in
united
benefices.

XIII. When any church is pulled down, under the provisions of this act, her Majesty's commissioners for building new churches, with the consent of the bishop of the diocese or chancellor of the diocese under his hand and seal, shall and they are hereby authorized to alter and readjust the pews or seats and the appropriation thereof in the church of the united benefice left standing, so that not less than one third of the sittings in such church shall be free and unappropriated, and the remainder be placed at the disposal of the churchwardens, under the control and direction of the bishop, of such church, for the use of the parishioners of such united benefice.

Sites of
churches
to be
pulled
down to
vest in

XIV. After any order in council under this act shall have obtained full force of law, the fee simple and inheritance of the site of any church or parsonage-house by such order in council directed to be pulled down, and of the building

materials of such church or parsonage-house, shall, without any further transfer, conveyance, or other form of law being had, observed, or required, belong to and be vested in her Majesty's commissioners for building new churches, in trust to make sale or dispose of such sites and materials or any part thereof, where the same may be sold, under the powers and for the purposes of this act, and in further trust to apply the proceeds of such sale or sales from time to time to such of the same purposes as in the said order in council may be indicated; and the said commissioners, with the consent of the bishop of the diocese under his hand and seal, may make a valid conveyance in fee simple to any body or person of the site of any church or parsonage-house pulled down under this act, or by virtue of any order in council authorized hereby: provided always, that the said commissioners shall give two calendar months' notice in the "London Gazette" previous to the sale or disposal of such site or any part thereof, in order that thereby facilities may be afforded for appropriating such site to sanitary purposes, public improvements, or the improvements of public streets in the vicinity; and if within two months from the time such notice shall have been inserted in the "London Gazette" the said commissioners shall not receive an offer which in their judgment shall be satisfactory for the purchase of such land for the purposes aforesaid, it shall be lawful for them to make sale or to dispose of such ground, at such time and at such prices and in such manner as in their discretion shall seem fit, and to apply the proceeds of such sale or sales, from time to time, for or towards the purposes hereinbefore mentioned.

commissioners, in trust to sell, and apply the proceeds to purposes indicated in order in council.

Commissioners may make valid conveyances of such sites. Proviso.

XV. The church building commissioners shall make an annual report to parliament respecting their proceedings in pursuance of this act.

Commissioners to report.

XVI. This act shall extend only to that part of the United Kingdom called England and Wales.

Extent of act.

XVII. The operation of this act shall be limited to five years from the date of the same receiving the royal assent.

Continuance of act.

21 & 22 VICTORIA, cap. 57.

An Act to amend the Act of the Fifth and Sixth Years of Her present Majesty, for enabling Ecclesiastical Corporations, aggregate and sole, to grant Leases for long Terms of Years.

5 & 6 Vict. c. 108. WHEREAS an act was passed in the session of the fifth and sixth years of the reign of her present Majesty, intituled, "An

Leases under 5 & 6 Vict. c. 108, may be granted in consideration of premiums; and sales or exchanges of lands may be effected in certain cases.

act for enabling ecclesiastical corporations, aggregate and sole, to grant leases for long terms of years:" and whereas it is expedient that the said act should be amended: be it therefore enacted and declared by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:

I. In any case in which it shall be made to appear to the satisfaction of the Ecclesiastical Commissioners for England that all or any part of the lands, houses, mines, minerals, or other property of or belonging to any ecclesiastical corporation, which are by the said act authorized to be leased, might, to the permanent advantage of the estate or endowments belonging to such corporation, be leased in any manner, or be sold, exchanged, or otherwise disposed of, it shall be lawful for any ecclesiastical corporation, aggregate or sole, except as in the said act is excepted, from time to time, with such consents as in the said recited act mentioned, and with the approval of the said commissioners, to be testified by deed under their common seal, to lease all or any part or parts of the lands, houses, mines, minerals, or other property belonging to such corporation, whether the same shall or shall not have been previously leased or dealt with under the provisions of the said recited act or of this act, and either in consideration or partly in consideration of premiums or not, or for such other considerations, and for such term or terms, and under and subject to such covenants, stipulations, conditions, and agreements on the part of the lessee or lessees, and generally in such manner as the said commissioners shall under the circumstances of each

case think proper and advisable; and also with the like consents as are by the said recited act required to the granting of a lease (other than and except the consent of the lord of a manor thereby required in regard to a lease of copyhold hereditaments), and with the approval of the said commissioners, to be testified as aforesaid, absolutely to sell or convey in exchange or by way of partition, or otherwise dispose of, all or any part or parts of such lands, houses, mines, minerals, and other property, whether the same shall have been previously leased under the provisions of this act or the said recited act or not, for such equivalent, either in money, or in lands, tenements, or hereditaments, or partly in money and partly in lands, tenements, or hereditaments, or for such other considerations or purposes, as the said commissioners shall deem reasonable and proper, and on every or any such exchange or partition to give or receive, in such manner as is hereinafter mentioned, any sum or sums of money by way of equality of exchange or partition: provided always, that no such sale by the incumbent of a benefice as is above-mentioned shall be authorized by the said commissioners unless three months' notice in writing of such proposed sale shall have been given to the bishop of the diocese in which the benefice is situate.

II. All sums of money which shall be payable by way of premium on the granting of any such lease, and all rents, royalties, and other reservations to be reserved or made payable by any such lease of any mines, minerals, quarries, or beds, and all monies to arise on any such sale, or to be received on any such exchange or partition, shall be payable and paid to the said commissioners as if they were the sole lessors or vendors of the property leased or sold in consideration thereof, and the receipt of the treasurer or treasurers of the said commissioners for the time being shall be a good and sufficient discharge for the consideration for any property so sold, and the purchaser shall not be bound to see to the application of such consideration when so paid; or such monies, or any part thereof, may, with the approval of the said commissioners, be permitted to remain charged by way of mortgage to the said commissioners upon the premises so leased, sold, or conveyed in

Applica-
tion of
monies
produced
by sales,
&c.

exchange or partition, at such rate of interest, for such period, and upon such terms as the parties, with such approval, may agree upon; and on such mortgage being discharged the money thereby secured shall be paid to the said commissioners as aforesaid; and all such sums of money so to arise or be received as aforesaid, after payment of the expenses incident to the transaction in respect of which the same became payable, shall, at such time or times as the said commissioners may think proper, be laid out by them in the purchase of other lands, houses, and hereditaments convenient to be held by the corporation in whose behalf the same shall have been received; and the lands, houses, and hereditaments so to be purchased, and also the lands, houses, and hereditaments which shall be received on any such exchange or partition as aforesaid, shall be conveyed and assured in such form and manner that the same may become the property of and be vested in such last-mentioned ecclesiastical corporation for ever, and shall be subject to all the same powers and provisions as the hereditaments from the leasing, selling, exchanging, or partitioning of which the money wherewith the same were purchased would have been subject if no such lease, sale, exchange, or partition had been made, except so far as is otherwise provided by this act, the statute of mortmain or any other act or rule of law to the contrary notwithstanding; and until the money so to arise or be produced or received as aforesaid shall be laid out in such purchase, the same shall be invested, as soon as conveniently may be after the same shall have been carried to account in the books of the said commissioners, in the names of the said commissioners for the time being in the public stocks or funds, and the dividends thereof shall be paid to the person or persons to whom the rents and profits of the said hereditaments to be purchased would go or belong in case such purchase were actually made.

Power to
raise
money to
be paid for
equality of
exchange
or parti-
tion.

III. For the purpose of raising any sum or sums of money which may be agreed to be paid for equality of exchange or partition, or for the purchase of any freehold land, or of any outstanding leasehold interest in land, belonging to any ecclesiastical corporation, over and above the money then belonging to such corporation and available

for any such purpose as aforesaid, it shall be lawful for every such corporation, with such approval and consents as aforesaid, to borrow the same upon the security and to execute a mortgage or mortgages of all or any part or parts of the hereditaments belonging to such corporation, for any term or terms of years, redeemable on payment of the principal sum or sums so borrowed, with interest for the same; and the principal money so secured may be discharged out of any principal monies belonging or accruing to such corporation under the said recited act or this act or otherwise.

IV. For all or any of such purposes as aforesaid, it shall be lawful for every such ecclesiastical corporation, with such approval and consents as aforesaid, from time to time to enter into, make, and execute such contracts and agreements, and to grant such licences or permissions to search for mines, and such other powers preliminary to or consequent upon any such contract, and also to alter, vary, or rescind the same, and accept surrenders of any lease or leases, and release any lessee or lessees in respect of breaches of covenant, in such manner and for such consideration as to the said commissioners shall appear advisable: and the lands with respect to which any contract shall be abandoned or surrender taken shall be subject to all the powers and provisions of the said recited act and of this act; and all contracts and agreements so entered into by any person as aforesaid in his corporate capacity shall be binding upon his successors, and may be enforced against them.

Power to enter into and vary contracts and accept surrenders.

V. Any ecclesiastical corporation as aforesaid, with the approval of the said commissioners, may charge the amount of the expenses to be incurred in carrying into effect any of the provisions of the said recited act or of this act on any lands, tenements, or hereditaments belonging to such corporation, but so nevertheless that the charge upon such lands shall be lessened in every year following by one twentieth part at the least of the whole original charge thereon.

Provision for payment of expenses of leases.

VI. Provided always, that no sale, exchange, or partition shall be made under the provisions of this act of any lands or hereditaments held so as to be capable of being sold, enfranchised, or conveyed in exchange, according to the provisions of an act passed in the fourteenth and fifteenth

This act not to interfere with the act 14 & 15 Vict. c. 104.

years of her Majesty, chapter one hundred and four, so long as any of the powers contained in the said act for sale, enfranchisement, or exchange shall remain in force with reference to such lands or hereditaments.

This act
not to re-
peal
powers
under
former
acts.

VII. Provided also, that nothing in this act contained shall repeal any of the powers or authorities vested in the said commissioners by an act of the sixth and seventh years of her Majesty's reign, intituled, "An act to make better provision for the spiritual care of populous parishes," or in any other act relating to the Ecclesiastical Commissioners for England, with respect to or over lands, tithes, rent-charges, tenements, and other hereditaments vested or liable to be vested in them, or to repeal or alter any of the powers or authorities contained in any of the acts now in force for or relating to the enfranchisement of copyholds, or in any of the acts for the enclosure of commons or other lands or grounds, or in any of the church building acts, so far as any of such powers or authorities apply to or affect the estates of ecclesiastical corporations; but the powers and authorities contained in this act shall be considered cumulative or alternative to the powers and authorities contained in the said several other acts hereinbefore referred to.

On sale or
purchase
of part of
estate held
under a
lease the
rent to be
apportioned.

VIII. Upon the sale or purchase on behalf of any ecclesiastical corporation of the estate or interest of any lessee in a part only of the lands comprised in any lease, whereby the leasehold interest in the land so sold or purchased shall become extinguished in the reversion, it shall be lawful for the said commissioners, by a memorandum in writing under their common seal, which may be indorsed on such lease, to apportion the rent reserved thereby, and declare what part thereof shall continue payable thereunder, and thereupon such apportioned part of the rent shall be payable as if the same had been the rent originally reserved in respect of the lands not sold or purchased; and such apportionment shall be valid and binding upon or against all persons interested in such last-mentioned lands; and where the rent originally reserved was an ancient and accustomed rent, the part so continuing payable shall be deemed and taken to be the ancient and accustomed rent for the lands not sold or purchased, and the reservations, covenants, and agreements

contained in such lease, and the powers and authorities of any such ecclesiastical corporation, so far as the same shall be applicable to the lands not sold or purchased, shall remain in full force as if such sale or purchase had not been made.

IX. No lease of any lands purchased or acquired, or in which the estate or interest of the lessee, or of a holder of copyhold or customary land, shall be purchased or acquired by any ecclesiastical corporation under this act, shall (except under the express power contained in the said recited act of the fifth and sixth years of her Majesty's reign, or in this act), be made or granted otherwise than from year to year, or for a term of years in possession, not exceeding fourteen years, at the best annual rent that can be reasonably gotten, without fine, and the lessee not to be made punishable for waste or exempted from liability in respect of waste.

No lease to be granted of land acquired under the act, except at rack-rent.

X. All the clauses contained in the said first-recited act respecting improvements in the annual value of any dignity, office, or benefice by means of any lease granted under that act shall extend and apply to any improvement of income which may accrue by means of any lease, sale, exchange, partition, purchase, or investment to be granted or made under the provisions of this act; save and except that with respect to all improvements of income which have accrued or shall accrue to any benefice under the provisions of the said recited act or this act it shall be lawful, by the authority in the said recited act mentioned, and subject to the like notice being given to the patron or patrons of such benefice as is by the said act required, at any time or times after the commencement of such improvement, and notwithstanding the period of three years limited by the said act may have expired, to direct that from such time (not operating retrospectively, nor so as to affect the incumbent in possession at the time of the granting of any such lease) as shall be fixed by the said commissioners such portion of the improved income as the said commissioners shall deem expedient shall be paid to the said commissioners, to be applied according to the directions in that behalf contained in the said act; and also save and except that the clause No. XIV.

Improved value of dignities, offices, and benefices to be paid to commissioners.

of the said act entitled in the margin thereof, "portion of improved value under mining leases to be paid to commissioners," shall be and the same is, so far as it relates to any lease to be hereafter granted by any rector, vicar, or incumbent of any other benefice with cure of souls, hereby repealed.

Sect. 18 of 5 & 6 Vict. c. 108, repealed. XI. The clause No. XVIII. of the said recited act, entitled in the marginal note "surveyor to make valuation, &c., when a new lease is intended," shall be and the same is hereby repealed.

Other clauses not hereby repealed in this act. XII. All the several clauses and provisions contained in the said recited act of the fifth and sixth years of her Majesty's reign which are not by this act expressly or by necessary implication repealed, so far as the same are applicable, and are not modified by this act or inconsistent with the provisions thereof, shall be incorporated with and be construed as forming part of this act.

Short titles XIII. In citing the said recited act of the fifth and sixth years of her Majesty's reign, or this act, in any other act of parliament, or in any legal instrument, it shall be sufficient to use the expression "The Ecclesiastical Leasing Acts," or "The Ecclesiastical Leasing Act, 1842," or "The Ecclesiastical Leasing Act, 1858," as the case may be.

Act to extend only to England and Wales, Isle of Man, &c. XIV. This act shall extend only to that part of the United Kingdom called England and Wales, and to the Isle of Man, and to the Islands of Guernsey, Jersey, Alderney, and Sark.

28 & 29 VICTORIA, cap. 69.

An Act further to amend and render more effectual the Law for providing fit Houses for the Beneficed Clergy, and for other purposes.

17 Geo. 3, c. 53, 21 Geo. 3, c. 66, 7 Geo. 4, c. 66, 1 & 2 Vict. c. 23. WHEREAS under the provisions of the several acts passed in the sessions held in the seventeenth year of the reign of his late Majesty King George the Third, chapter fifty-three, in the twenty-first year of the same reign, chapter sixty-six, in the seventh year of the reign of his late Majesty King

George the Fourth, chapter sixty-six, and in the first and second years of the reign of her present Majesty, chapter twenty-three, the incumbent of a benefice is authorized and empowered, with the consents in the said acts specified, to borrow and take up at interest a sum of money exceeding one year's but not exceeding three years' net income of his benefice, for the purpose of building, repairing, or purchasing a house and other necessary buildings, or a proper site for such house and other necessary buildings, to be used as the parsonage or glebe house and offices for his benefice, and as a security for the money so to be borrowed to mortgage the glebe tithes, rent-charges, rents, and other profits and emoluments of his benefice for the term of thirty-five years, the principal so borrowed being repayable by thirty annual instalments, with interest to accrue due thereon: and whereas it is expedient to extend the provisions of the said acts and to provide for the other purposes hereinafter expressed: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present parliament assembled, and by the authority of the same, as follows:—

I. The incumbent of any benefice may, according to the provisions of and with the consents required by the said acts, and by any act or acts amending or referring to the same, borrow and take up at interest on mortgage as provided by the same acts, or any of them, for the purposes of the same acts or any of them, or for the purposes of the act passed in the session held in the fifty-fifth year of the reign of his said Majesty King George the Third, chapter one hundred and forty-seven, or for the purpose of purchasing any lands or hereditaments not exceeding twelve acres, contiguous to or desirable to be used or occupied with the parsonage-house or glebe belonging to such benefice, or for the purpose of building any offices, stables, or outbuildings, or fences necessary for the occupation or protection of such parsonage, or for the purpose of restoring, rebuilding, or repairing the fabric of the chancel of the church of such benefice (in any case where such incumbent is or shall be liable to repair or sustain the fabric of such chancel), or for the purpose of building, improving, enlarging, or pur-

Extension
of provi-
sions of re-
cited Acts
relating to
repairing,
rebuilding,
or acquir-
ing houses
of resi-
dence, &c.

chasing any farm or farm-house buildings, or labourers' dwelling-houses, with the appurtenances belonging to or desirable to be acquired for any farm or lands appertaining to such benefice, any sum or sums of money not being less than one hundred pounds, and not exceeding three years' net income of such benefice; and out of the sum to be borrowed it shall be lawful to pay the charges and expenses of the architect or surveyor who shall be employed in or about any of the purposes aforesaid, and also the costs and expenses of and incidental to the preparation of the mortgage deed or deeds, and of and incidental to any purchase by the said acts or this act authorized to be made.

Governors of Queen Anne's Bounty may sell lands, &c., given to them for their general purposes.

II. It shall be lawful for the governors of the bounty of Queen Anne, for the augmentation of the maintenance of the poor clergy, absolutely to sell and dispose of, either altogether or in parcels, and either by public sale or by private contract, for such sum or sums of money as to the said governors shall seem fair and reasonable, all houses, lands, tithes, tithe rent-charges, and hereditaments of what nature or kind soever which may have been or shall hereafter be given, devised, or conveyed to or acquired by the said governors for the purpose generally of augmenting the maintenance of the poor clergy; and the monies to arise from every such sale shall be paid to the said governors, and the receipts of their treasurer for the time being shall be sufficient discharges for the said monies, and shall effectually release and exonerate the person or persons paying the same from all responsibility in respect of the application thereof; and the said monies when so received shall be applied and disposed of by the said governors for the benefit and augmentation of benefices in such and the same manner according to the rules and regulations of the said governors as the general funds and profits of the said governors are applicable and disposable.

Powers of recited acts extended to this Act.

III. All the powers, authorities, provisions, forms, and matters in the hereinbefore mentioned acts contained shall, except as herein otherwise is provided, extend and be applicable, *mutatis mutandis*, to all the purposes of this act and of the said hereinbefore mentioned acts, as if the same had been respectively repeated and set forth herein.

IV. It shall be lawful for the principal officer of any public department holding any messuages, buildings, lands, tenements, or hereditaments for or on behalf of her Majesty, or otherwise for the public use or the use of such department, and for every body politic, corporate, or collegiate, and corporation aggregate or sole, and for all trustees, guardians, commissioners, or other persons having the control, care, or management of any hospital, school, charitable foundation, or other public institution, and for all other persons by "The Lands Clauses Consolidation Act, 1845," empowered to sell and convey or release lands by any assurance under the hand and seal or under the common seal, as the case may be, of such principal officer, body, or corporation, or under the hands and seals or hand and seal of such trustees, guardians, commissioners, or other persons or person, to grant and convey or release, either by way of voluntary gift or of sale, to the said governors, in fee simple or otherwise, any messuages, buildings, lands, tenements, or hereditaments to be used as and for parsonages or residences for incumbents of benefices, or the outbuildings, yards, gardens, or appurtenances thereto, or as and for sites or for enlarging sites for such parsonages or residences or the outbuildings, yards, gardens, or appurtenances thereto, and all such assurances may be made according to the form contained in the twentieth section of the act passed in the first year of her Majesty's reign, chapter twenty, or as near thereto as the circumstances of the case will admit, or in any other form which the said governors may approve; but no such assurance or assurances from the same body or persons otherwise than upon a sale for the fair value shall comprise (including the site of any buildings) more than one acre, and upon every such assurance by way of sale the purchase-money may be paid to the seller or sellers, or as he or they shall appoint, and the receipt of them or him or their or his appointees shall be a sufficient discharge for the same, except that in the case of a sale for more than twenty pounds by a tenant for life or other person having only a partial estate, the purchase-money shall be paid to and applied by two trustees in manner provided by the seventy-first section of "The Lands Clauses Consolidation Act, 1845."

Corporations and persons under disability or incapacity authorized to convey houses and lands for parsonages.

**Five of the
Governors
may form
a quorum.** V. To facilitate the despatch of the business of the said governors, any five of the said governors, three of whom at least shall be archbishops or bishops, shall make a quorum for the future, and be sufficient at any court for the despatch, by majority of votes, of all business of the said governors.

AN INDEX OF REFERENCE

TO THE ACT TO ABRIDGE THE HOLDING OF BENEFICES IN PLURALITY,

AND TO MAKE BETTER PROVISION FOR THE RESIDENCE OF THE CLERGY, 1 & 2 VICT. cap. 106¹;

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¹ With respect to the holding of benefices in plurality, the act of 1 & 2 Vict. c. 106, here indexed, has been materially altered by the act 13 & 14 Vict. c. 98, as to which refer to the last-mentioned act and also to the title "Pluralities" in this work.

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- Exception in favour of an archdeacon *ib.*
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- With a population of more than 3000, may not be held with a
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- May not be held together with another, if the joint yearly
value shall exceed 1000*l.*³ *ib.*
- But two benefices, which under the above provisions might not
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- A person holding any cathedral preferment or preferments, and
benefice or benefices, and accepting a benefice, to declare,
previous to admission, which cathedral preferment and bene-
fice, or which two benefices, he proposes to hold together *ib.*

² The whole of the act must be referred to as to the provisions concern-
ing "Benefices;" the most prominent only are here indexed.

³ By 13 & 14 Vict. c. 98, the distance is restricted to three miles, and
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—	120l.,	—	500.
---	--------	---	------

— 135l., — 750.

— 150l., — 1000.

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--	------------

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---	------------

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---	------------

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--	------------

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---	------------

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---	------------

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THE END.

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4. The Sundays and all other Holy Days are fully illustrated in respect to the history of their observance by the ancient Church, and the Church of England, and to the application of the Epistles and Gospels.
5. To every Psalm there is annexed a carefully-arranged set of marginal references, and a condensed note showing the sense in which it is to be used in Divine Service. These notes and references are especially directed towards drawing out the Christology of the Psalms, and form a Commentary of themselves.

Throughout the work it has been the object of the writers to put into the reader's possession (so far as they relate to the Prayer Book) the results of the extensive study and research which have been applied to Liturgical subjects by ancient and modern writers; and the opinions of the Press justify the Publishers in offering this Commentary to the public as the most complete that has yet appeared: valuable and interesting to all who desire thoroughly to understand the Devotional System of the Church of England.

